



THE BRITISH APPROACH  
TO POLITICS



*by Professor H. J. Laski*

AN INTRODUCTION TO POLITICS

"Realistic common sense is illumined by a genuine passion for justice, and a not unhumorous eye for human contrariness."—*Time and Tide.*

*First Impression*

# THE BRITISH APPROACH TO POLITICS

by

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Quod Omnes Tangit, Ab Omnibus Approbetur  
“What touches all should be approved by all.”

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## PREFACE

The aim of this book is to describe the Government of Britain, and in less detail, of the British Commonwealth and Empire; and so to set forth the nature and purpose of political activity, as it presents itself to the people of Britain through their institutions.

The book is intended for those citizens who are beginning the study of politics, whether individually, or as members of adult education classes or other groups; and for the Sixth Forms of secondary schools, who, I hope, will find it useful either for post-Matriculation examinations or as an aid to general knowledge.

The chief difficulty besetting a writer on this subject is the selection of material and the arrangement of it in due proportion. I have endeavoured to observe the following rules; first, to give chief attention to those matters over which the mass of citizens can exercise some control, and for which they bear responsibility; second, to include such detailed information about the mechanism of Government as examination syllabuses require. The intimate connection of the parts of that mechanism, one with another, make it desirable for the reader to turn the pages back and forth—relating, for example, the material of Chapter VIII with that of the Chapters on Local Government, or the description of the Treasury in Chapter VI with the Parliamentary control of finance described in Chapter XI.

For the use of those who wish to pursue further any aspect of the subject, I have added to each Chapter a short list of books. Many of these contain matter relating to the subject of a whole Part, or of the entire book; these are marked with an asterisk.

Politics is closely connected with history and economics, and at times it has been necessary to cross the border into the

domains of these sciences. Such digressions are, however, restricted to the minimum necessary to give an intelligible introduction to the political problems of the present day. It cannot be more than an introduction. Had I attempted, for example, in the Chapter on World Affairs, to assess the merits of various proposals for appeasement, I should have been led far beyond the proper limits of this book. On these and other disputed topics, my object has been to suggest possibilities and difficulties, and to open the door for further study by the reader.

Although I have tried to avoid bias, I cannot hope to have been entirely successful. On some controversial topics I have expressed a definite point of view; but, to the best of my knowledge, I have not suppressed or distorted facts. There is, however, one principle that I have not hesitated to champion—that of democracy. It is my hope that this book will be of use to those who wish to form unprejudiced opinions and take part in the Government of their country. Since those actions can only be performed in a democracy, the purpose of the book is necessarily democratic.

There are many acknowledgments which I gladly make. First, to Mrs. Hubback, the Principal of Morley College, who has given me advice and encouragement throughout. If my book helps the work of Education in Citizenship, for which she has done so much, it will be some repayment of my debt.

I am particularly grateful to Dr. Ivor Jennings for permission to make use of ideas and information contained in his admirable book, *Parliamentary Reform*, and for his constructive criticisms of certain chapters of this work. To the New Fabian Research Bureau, under whose auspices Dr. Jennings's book was published, I am likewise indebted. Mr. John Parker, M.P., the General Secretary of the Bureau, has kindly provided me with further advice and information. Mr. L. Hill, the Secretary of the National Association of Local Government Officers, and Mr. Norman Fedrick, LL.B., have given generously of their time and thought to help me.

My friend and colleague, Mr. E. F. Coles, B.A., has advised me on historical matters and helped me with a general revision of the work. My friend, Mrs. G. Butler, has given valuable secretarial assistance.

I owe a great deal to the students I have met when taking Adult Education Classes, and to my pupils at the Coopers' Company's School. Their questions and arguments have stimulated and clarified my own thoughts; and the matter and arrangement of the book has been largely determined by this two-fold teaching experience.

For the shortcomings of the book, the responsibility is entirely mine.

MICHAEL STEWART.

*London,*

*July, 1938.*





# INTRODUCTORY

## CHAPTER I

# THE NATURE OF POLITICS

The Purpose of Government  
Sovereignty and Justice  
The Use of Force  
Laws and Facts  
The Need for Change  
States, Nations and Races  
Distribution of Power in the State

### THE PURPOSE OF GOVERNMENT.

It is the nature of man to live in communities. He lives in this fashion in every part of the world to-day, and the evidence of history and pre-history shows how long he has done so. The reasons for this habit do not concern politics. Psychologists consider that man is moved by instincts and desires which can only find full satisfaction in community life, and economists point out that efficient production of wealth requires co-operation; therefore there are great advantages to be gained by living together. Politics starts with the fact of community life; it discusses the problems which that life creates; it also examines and compares the different kinds of community.

The central problem is liberty. When people live in a community they cannot do exactly as they please. Motorists, for example, cannot drive wherever they like without creating disorder; neither can men kill or rob whomever they please without causing society to collapse. But if men were not thus restricted, if they had, in name, the liberty to do what they liked, they would, in fact, have very little liberty. Much of their energy would be absorbed by the attempt to protect themselves,

and the rest by the task of getting their living; for the general insecurity would prevent the development of any improved methods of producing wealth. Community life, therefore, means giving up certain liberties, which are liberties in name only, in order to get more liberty in fact. The 17th century writer, Hobbes, was so impressed by this aspect of politics that he made it the centre of his argument. The life of man outside society, he said, is "poor, solitary, nasty, brutish and short"—so men should always obey the Government, since any Government, however harsh, is better than none.

But while Government can thus make liberty possible, it can also, in the hands of unscrupulous people, destroy it. Such people may use their power, not for the good of all, but to make the majority subject to their convenience; when this happens, men feel justified in overturning their Government and setting another in its place. The alternative to the Government men have is not, necessarily, no Government; they can change the kind of Government. So Government has not only the negative task of preventing disorder, but the positive task of creating the conditions of a good life; this is what the people expect from it in return for the powers they have given to it. Hence the 18th century writer, Rousseau, speaks of a "Social Contract"—an agreement, not formally made, but understood, between rulers and ruled—the latter to obey, the former to do justice. When human beings group themselves into debating societies, cricket clubs and other voluntary associations, this Social Contract is plainly written down; powers are given to the officers, and work is expected from them. But many political groupings, or States, were formed before men knew how to write, or to think as clearly as some people can to-day; rarely, therefore, has such a Social Contract been made in plain terms. It is, however, a useful idea for the criticism of forms of Government. A State may come into existence because a small number of men climb into a position from which they can control a large number; but when this majority start to ask "Why should we obey?", it becomes

necessary to show that certain advantages follow from obedience, and this will only be true if those who control the Government do so for everyone's advantage, and not solely for their own.

#### SOVEREIGNTY AND JUSTICE.

Two important facts follow about good Government. First, it must be strong enough to make itself obeyed and to carry out the duties of administration efficiently. Second, it must not be so strong that it can do just as it likes, and cannot be compelled to fulfil its part of the Social Contract. Dictators to-day accuse democracies of not satisfying the first condition, and democrats reply by pointing out that dictatorships do not satisfy the second. The power of a Government to make itself obeyed is called Sovereignty, and the person or persons, in a State, who have this power are called the Sovereign. In order to understand the organisation of any particular State, it is convenient to begin by finding out who is the Sovereign; but this is not always an easy task. If the question is put to a group of citizens of the U.S.A., whether each of the forty-eight States in the Union is a Sovereign by itself, a brisk argument will be started. In the Europe of the Middle Ages it is doubtful whether there was any Sovereign, since kings controlled some matters, and the Church others, and a continual dispute raged about the division of power. The difficulties thus caused illustrate the usefulness of having a Sovereign who can say definitely what may or may not be done. Sovereigns do not necessarily exercise all the powers which, in name, belong to them. The Parliament of the United Kingdom might, if it wished, order everyone to attend a Church of England service on Sundays, as was the rule in the 16th century; but to-day it allows everyone, in this matter, to treat as Sovereign the particular Church to which he belongs, or, if he prefers, to have no Sovereign at all. Parliament acts thus because it knows that if it did not it would provoke so strong a resistance that its Sovereignty would be taken away. Sovereignty only works within the limits that people at the time think reason-

able, or are prepared to tolerate. A Sovereign, therefore, is a body exercising, not all power, but the maximum power within these limits. Such a Sovereign is found in every human group—or else a state of confusion and change exists, out of which a new Sovereign will arise.

A Sovereign which fulfils its part of the Social Contract is said to do justice, and this word also needs examination. There are some happenings which illustrate it plainly enough. When Ahab and Jezebel killed Naboth in order to take his vineyard, they committed injustice. But when Solon announced that debts owing to rich landowners in ancient Attica were not to be paid, he won a reputation for wisdom. When the British Parliament in 1832 deprived some landowners of the power to say who should be Members of Parliament, the justice of their action was hotly disputed, though nearly everyone would approve it to-day. When the Spanish Republic deprived some religious orders of their property, there was, and still is, fierce controversy. So an abstract rule, that justice means not interfering with the rights and powers which people have, will not serve. The question must be put, what is the power of Government for? Its purpose is to make such a framework of rules that men can perform the business of getting their living as efficiently and happily as technical knowledge permits, and then enjoy their leisure, and develop their talents and personalities, as freely as the need to respect other people's freedom allows. Any actions of Government which help to this end are just; as ways of getting a living change, so the list of what actions are just also changes.

There is, however, one positive rule that may be laid down about justice. Although laws must be changed from time to time, they ought at any one time to be definite and known. Even a game cannot be played with someone who invents a new rule every time he is in difficulties. No one will be eager to work on a piece of land if he does not know whether the law requires him to pay a rent or not. Certainty of the rules is a necessary condition of activity, and without activity man cannot live.

When Shylock asks for justice and his pound of flesh, he means that if the laws of Venice allow contracts to be made, and then will not enforce them, business men will not come to Venice and its prosperity will decline. The court might answer that if his contract is carried out, Venice will get a name for barbarity which will do it equal harm; it would be on surer ground if it had stated beforehand that contracts involving pounds of flesh would not be enforced. Laws may be just or unjust; but uncertainty of law will always cause injustice. For this reason lawgivers, or people believed to be lawgivers, hold an honoured place in history and legend—Hammurabi among the Babylonians, Lycurgus in Sparta, Alfred in England; their work is to take a tangled mass of customs and arrange it so that it can be understood.

Justice is most likely to flourish when the people who have to obey the laws can say what they think of them. For laws are just when they create the conditions for happiness; and no one knows whether I am happy better than I do. Schoolmasters often believe that the people in their charge, being young, do not know what will make them happy; so they speak of maintaining discipline rather than justice. Some Governments argue that their subjects are like children in their lack of ability or training, and must therefore be disciplined. This may sometimes be true, though if it is training that is lacking, good Governments will work to supply it, since a man is happier when he can judge for himself. The Government's discipline will not be just unless the rulers possess the rare virtue of knowing what their subjects like, as well as what they themselves like. A schoolmaster may be excused because of the youth of his charges; but when Governments and politicians start talking of discipline rather than justice, they are half-way to tyranny.

#### THE USE OF FORCE.

A further problem arises from the use of force in the State. Any Government's Sovereignty will be a dead letter unless it

can secure obedience, and to this end many means have been adopted, which become apparent when the law is disobeyed. If A tries to steal from B, the policeman, if there is one near, will restrain A; if A resists, the policeman will use force, and the law requires that bystanders shall help him. If A assembles his friends and puts up an organised resistance, the Armed Forces will help the police. The police, then, deal with lesser difficulties; if authority is seriously challenged, there are two widely different means for upholding it. One is the goodwill of the people, the other a trained and equipped force, whose members are required to obey the Government, whatever they, as individuals, may think about it. The more just a Government is, the more can it rely on the first of these methods. If the people think that A is pursuing a private quarrel, putting his own desires before the public safety, they will be willing to help the police. If they doubt whether the Government has done all it should to help A earn an honest living, they will hesitate before helping to arrest him for stealing. Then the Government will either have to improve its policy and win back popular support, or call out its Armed Forces. The danger of Armed Forces is that they may enable a Government to keep its power while neglecting its duty.

Force, then, is necessary, even to just Governments, so long as there are people whom H. G. Wells calls "recalcitrants"—people who will not respect the rights of others unless they are compelled to do so. The safest way of applying such force is for all citizens to recognise their duty to prevent disorder. It is only because this method will not always act quickly enough that Governments can claim the right to have a trained force; how can it be ensured that this will not turn Government into tyranny?

First, it must be established that the members of the force should obey the lawful Government. This does not mean, for example, that they should always obey the members of the present Cabinet or Parliament; they should obey whoever

happens to be the Government at the time. More accurately, they should be subject, not so much to the Government as to the State. The State is the permanent organisation of law and order; the Government is the particular people to whom, for a time, the task of carrying out the law has been entrusted. One of the marks of a free country is that people may criticise the Government without being treated as enemies of the State, on a level with criminals.

Loyalty of the Armed Forces to the State is not always easy to obtain. If most of the officers come from the richer classes in the community, they may use their power against a Government which does not protect the interests of the rich. If the Armed Forces are treated with too much reverence, amounting to worship, they may decide to take over the task of Government themselves. A very common device for securing loyalty to the State is to have some symbol for it, to which the Armed Forces are required to take the most solemn oaths. The Crown in Britain is an obvious example. The Roman Emperor, when he was worshipped as a God, became such a symbol, though never an acceptable one to Jews and Christians, to whom the idea of more than one God was repugnant. The Soviet Union adopts the plan of encouraging the Armed Forces, when not on military duty to mix with the ordinary people and play a part in the life of the State. Again, it can be argued that if all citizens have some military training, it will not be so easy for a bad Government to use Armed Forces against its people. The problem has been made more difficult by the improvements in military science, since a great amount of force can now be concentrated in a few hands.

But while the State, subject to safeguards, may have a trained force, it is a rule of good Government that nobody else should be so equipped. The Wars of the Roses are a striking example from history of the evils of private armies. In 1934, Austria was plunged into civil war, partly by the failure of its Government to prevent political parties from recruiting armies. Private armies



have inflicted terrible suffering on China, and even the welfare of France has been thus endangered.

Objection may be made, on two grounds, to the use of force at all. First, is not the purpose of community life to secure peace, instead of the principle that *Might is Right*? If the State depends on force, how is it better than uncivilised life? It can be answered that the State uses force in accordance with law—that is, the opinion of its people as to what is best; the uncivilised man and the criminal use it for their private convenience. In the same way, military action by an effective League of Nations reflecting the judgment of mankind would differ from war waged by a single State to gain its own ends. This answer is sound only in so far as the law, or the League decisions, are just.<sup>1</sup>

Secondly, does not force brutalise those who use it, so that they become incapable of justice? The behaviour of the victorious nations in 1918-19, at Versailles, and the conduct of dictators to-day, gives much weight to this objection. The conclusion of this line of argument is the political doctrine known as Anarchism, the belief that all forms of compulsion do more harm than good. The Anarchist does not desire "anarchy" as the word is generally used, meaning disorder and lack of all organisation; he believes that organisation should result entirely from free consent, and that authorities which try to use compulsion should be destroyed. Anarchism has been most popular where Governments have been laziest and most inclined to rely on compulsion rather than on the goodwill which results from wise policy. Granted that compulsion is evil and that the organisation of force to impose it involves dangers to liberty, yet the majority of mankind take the view that the dangers of disorder are greater. The argument returns to the first of political questions, what would the life of men be like without Government?

#### LAWS AND FACTS.

This examination of fundamental ideas has been necessary;

<sup>1</sup> See Ch. XVI and Ch. XXIII.

the solution of the practical problems of Government depends on a proper understanding of the first principles of politics. But man did not, at first, weigh the *pros* and *cons* of this and that form of Government, and adopt one as the result of a reasoned conclusion. The problem of getting his living led him to certain political forms; only later did he begin to criticise these forms, to make a science of politics, and to try deliberately to improve his Government. His success in this improvement has depended on his economic progress and on the development of the power to think clearly. If practical problems are solved with the help of principles, principles must be examined in the light of facts. It has already been noticed that the idea of justice is changed by the conditions of society; this examination must now be carried further.

Except in a few favoured climates, the task of getting food, shelter and clothing has always taken much of man's attention, and so, for the most part, determined his form of Government. When he lived by tilling the fields he worshipped the natural forces—rain, sun and rivers—and power went to those who could create the belief that they had special influence with these nature gods. When shortage of food led to fighting among families and tribes, physical strength became another source of power. The ruling class thus created strengthened itself by acquiring the ownership of land. With the wealth that ownership brought they were able to maintain trained forces to uphold their power. The process varied a great deal from one part of the world to another, but it is, in general, true that the origin of States is the seizure of power by a group. The group keeps power as long as it can govern efficiently enough to prevent or suppress revolt. Later, criticism and peaceable reform may take the place of revolt, but the element of coercion remains. So, in nearly all societies to-day, there is a privileged group which, whatever the form of the State, exercises power out of proportion to its numbers.

Examples will make the point clear. If a foreigner who knows

nothing of British Government, is told that everyone over twenty-one, with a few exceptions, can help to elect the Sovereign Parliament, he is correctly informed; but he does not obtain a complete picture, unless it is added that, when elections occur, the power to spend money is a great advantage, and that some people have much more money than others. The statement that all British subjects are equal in the eyes of the law, must be qualified by the admission that accused persons find it wise to employ a good lawyer, and that lawyers cost money. The extent of the freedom of the Press can be discovered by examining the laws; but to the legal statement must be added a description of the great newspaper monopolies. The law in Britain, unlike the law in South Africa, does not prevent anyone from doing what work he likes; but it is important to know what opportunities there are of getting the special education needed for many kinds of work. The law reveals where power resides in name; the economic system may show that in fact it resides elsewhere.

This principle is useful for the comparison of different kinds of State. Though there is great general similarity in the economic development of several European States, there are wide differences of detail, and these leave their mark on politics. So it is not useful to hunt for an ideal form of Government, suitable to all times and places. Because States are at different stages of development, improvement can only be effected by examination of the circumstances of each State, not by the arbitrary introduction of forms of Government which have been developed in altogether different conditions. A man may, without inconsistency, believe that it is desirable to keep monarchy in Britain, without wanting to see kings restored in France or established in the U.S.A. A common error in political argument is to say, for example, "Britain is a monarchy; France is a republic; Britain is better (or worse) off than France; therefore monarchical Government is better (or worse) than republican." This argument neglects the obvious truth that the prosperity of a country may be affected by the natural resources of its territory, by the policies

of its neighbours, by the conduct of past rulers, and many other factors over which the existing Government has but little control. It should also be remembered that the goodness of a Government depends on its fitness to solve the particular problems which its country presents. Likewise it is an error to reject a proposed reform because it would not solve all problems. There is not a choice between any proposed reforms, on the one hand, and perfection on the other; men must choose between a limited number of proposals, and compare them both with one another and with the probable results of making no changes. These limits to choice are set by the economic, historical and geographical circumstances of the time and place.

But while it would be fruitless to search for ideal and universal forms of Government, it would be equally wrong to suppose that there are no universal standards by which Government can be judged. What has already been said about justice provides such a standard. If the members of the Government set their personal advantage against and above that of the people; if they show undeserved favour to particular groups; if they refuse to permit the people to express their desires, they offend against the principles of good Government.

#### THE NEED FOR CHANGE.

A further principle of good Government can be deduced from the connection of politics with economics and with the sciences that give man control over nature. This is the necessity for change. Just as there is no ideal government for all places, so there is no ideal for all times. In 18th century Britain much local administration was carried out by obliging the members of a Parish to take the jobs of Constable, Overseer, or Surveyor of Highways, in turn. The work was not well done, but there was no complete breakdown through inefficiency. Then the genius of inventors and the energy of capitalists wrought an industrial revolution; great towns sprang up in a few years with no adequate arrangements for their safety or health.

Inefficient local Government changed from a nuisance to a deadly peril, and one aspect of the history of the 19th century is an effort of Government to keep pace with scientific and economic changes. A Board of Public Health would have been useful in the 17th century—it might have prevented the Great Plague; by the middle of the 19th century it was not merely useful but essential. When Government does not change rapidly enough, society is strained and tormented with “problems”; the slum problem of to-day is the penalty for not creating a public department to deal with housing as soon as it was needed. If the neglect is long continued, the society perishes, and, after a time of disorder, something new may take its place, as happened in France at the end of the 18th century, and in Russia in the 20th. War has for long been thought evil, but the invention of aeroplanes, tanks and gases turns what was a bad habit into a mortal disease; the problem of arranging the world’s politics so as to prevent war becomes infinitely more pressing.

A Government cannot therefore be approved solely on the ground that it keeps order; it must also be asked whether there are any arrangements to permit change. For change will come; if it comes unpermitted it causes the violent overthrow of Government. The confusion that follows may be long, expensive and ruinous to happiness; and it may end simply in the passing of power to the most unscrupulous. Change can come peaceably if criticism of the Government is allowed, and if there are opportunities, for all who are sufficiently talented, to take part in the Government. The Roman Empire in the first century B.C. nearly destroyed itself by trying to limit the governing class to a group of wealthy families. The English people pride themselves on their capacity for peaceful change, conveniently forgetting the more disturbed periods of their history. There is, however, a good deal of force in their claim, and this is due to the fact that their governing class showed more willingness to admit new men to its ranks than did the old aristocracies of France and Russia.

## STATES, NATIONS AND RACES.

But it is not only the economic structure of a society which helps to explain its politics. There are different races of men, each with its special characteristics; there are different languages and beliefs. Further, the States of to-day were formed at different times, and their politics bear the marks of their date of origin. The chief importance of these facts is that they affect the relations between Government and people. The special loyalty which a man feels to his own district or race or faith may conflict with his loyalty to the State; the form of Government must allow for this if the goodwill of the citizens is to be kept.

Of the forty-eight States of the American Union, thirteen are older than the U.S.A. itself; of the rest, some have been created by the migration of Europeans of many races to the open spaces of the West, some have been added by purchase. Each has a history of its own, and many have long traditions. The U.S.A. is a Federation; that is to say, the Government of the whole, or Federal Government, is not a sovereign ruler over the various parts; its rights, and the rights of each State, are exactly defined, and cannot be altered by the Federal Government alone, but only by the people as a whole, acting in a way laid down by the American Constitution. Contrast this with the Government of the United Kingdom, which is Unitary. Wide powers are given to towns and counties; special provision is made, in certain respects, for Scotland, Wales and Northern Ireland; but the Parliament of the whole has the power to alter these arrangements at will. Switzerland is made up of cantons, some of which are older than the Federation; and its people differ in language and religion and race. Although these differences are also found in Yugo-Slavia, the Government is not Federal, and there has been great discontent among the races and faiths which are in a minority.

Federation is a way of getting the advantages of living together even when there are great obstacles to unity. Peoples of different race and language may also be joined in an Empire. This

commonly happens when one group is richer or more powerful than the rest; trade between Europeans and the less well-armed Africans and Asiatics has led to the building of several Empires. At the head of an Empire is a Sovereign State, which makes and controls the Governments of the subject States. Parts of the British Empire, however, have full control of their own affairs, and these parts make up the British Commonwealth. The United Kingdom is, therefore, a Unitary State, the head of an Empire and the oldest member of a Commonwealth. This Commonwealth is like, but not the same as, a Federation; it is an illustration of the truth that political forms cannot be classified once and for all, because they change, and because new forms appear; politics deals not with dead things but with living men and changing habits. The everyday use of words, therefore, is not always an accurate guide to the facts.

Particular attention should be given to the words State, Nation and Race. The word State is generally used to describe a political group in which there is a Sovereign free from outside control; State, in fact, means Sovereign State. Exceptions to this definition are the subordinate States of an Empire, and the members of a Federation. Nation, in official use—as in the phrase League of Nations, or on a passport—has the same meaning as State; but in common speech it also means a group, perhaps larger or smaller than the State, bound together by common descent, language, faith or history. There are Scottish and Welsh nations, as well as English, in Great Britain; there are many separate nations in the Soviet Union.

A Race is a group of people of common descent, and since there has been so much mixture of races, it is a word very liable to misuse. There are obvious racial differences between an Englishman, an African and a Chinese; but when Englishmen speak of "the political instincts of the Anglo-Saxon race", forgetting the Danish, French, Celtic and other influences at work in Britain, or when Hitler speaks of the "Nordic race", then the boundary between fact and imagination is being crossed.

Attempts are sometimes made to build national policies on the basis of race-doctrine. The pre-War struggle for the Balkans, between the German and Austrian Empires on the one hand, and the Russian on the other, was represented as a conflict between German and Slav; the persecution of Jews is defended on the ground that race-purity must be preserved. The facts of racial history, however, are too obscure to form a satisfactory basis for policy; and so far as they are ascertained, they do not support the belief that there are "pure" races. Racial arguments are as a rule the pretexts by which a particular section or class tries to justify action taken in its own interest. "The art of politics", writes Dr. Conze, "consists in hiding one's purposes and motives; the science of politics and society consists in laying them bare".<sup>1</sup>

#### DISTRIBUTION OF POWER IN THE STATE.

Confusion over words appears also in the attempt to classify States according to the distribution of power in them. The Greek writer, Aristotle, in the fourth century B.C., noticed these types:— (i) Those where power is held by one man—monarchy. (ii) Where power is held by a few—aristocracy. (iii) Where power is held by the mass of the people—democracy. These forms could also be called tyranny, oligarchy and ochlocracy (mob-rule) respectively, in order to express disapproval. Most of these words are still used, but they do not serve a modern student of politics as well as they served Aristotle; they describe appearances rather than realities. The only reason why Germany is not called a monarchy is that Hitler does not wear a crown, and is known as Leader rather than as King or Emperor. The presence of a King suggests that the United Kingdom is a monarchy; the sight of thirty million people entitled to vote suggests democracy; the power of Press magnates to influence opinion, and of great industrialists to influence policy, supports the view that oligarchy, or plutocracy (rule of the wealthy) is the most suitable name.

<sup>1</sup> E. Conzé. *The Scientific Method of Thinking*. For a detailed examination of races in Europe, see Huxley & Haddon, *We Europeans*.



The distribution of power is also affected by the growth of population which has occurred since Aristotle's time. In a Greek democracy all the adult men, except slaves, met to decide policy; there was no election of Members of Parliament, since every citizen was a Member. Mere numbers make this impossible to-day, so that the power to govern—i.e., to make and carry out laws—must be entrusted to a few. There remains, however, the power to choose, criticise, and change—in a word, to control the Government; it is the position of this power which determines how modern States should be classified. When the power of control belongs to the whole people, the State is a democracy; where they have not this power, the State is a dictatorship. Most modern dictatorships entrust the power of control to a highly organized party, in which one man holds a leading position; but how far this Leader has supreme power, and how far he must consider the views of other members of the party oligarchy, none but those members themselves can say with certainty.

Finally, when one attempts to classify States, two precautions must be taken. The first is that one should not be misled by empty forms. Elections, and the existence of parties opposing the Government, are not evidence of democracy, if the Government is determined to hold its power and will use force if the election results are unfavourable; some South American and Balkan States have the forms of democracy but the reality of dictatorship. Secondly, there are States whose Governments are a mixture of dictatorship and democracy. In Poland, for example, the firmness with which a military group clings to its power makes it difficult to call the country a democracy; but the people may criticise and even influence the policy of the Government to an extent which would be impossible in Germany. There is a vital difference between democracy and dictatorship; but between the States in each class there will be lesser differences, and degrees of freedom. It is more important to know how the Government of a State works in practice, than to decide what label to place upon it. After an examination of the working of

the Government of Britain, and of Britain's position in the world, it will be possible to return, better equipped, to the fundamental questions raised in this chapter.

BOOKS:

\*LASKI. *A Grammar of Politics.*

\*FINER. *Theory and Practice of Modern Government.*

\*WALLAS. *Human Nature and Politics.*

ARISTOTLE. *Politics.*

ROUSSEAU. *Social Contract.*

HOBBS. *Leviathan.*

## CHAPTER II

# THE BRITISH CONSTITUTION

What is a Constitution?  
Sovereignty of Parliament  
Rule of Law  
Administrative Law  
An Unwritten Constitution  
What is Unconstitutional?  
The Defence of Liberty  
Old and New in the Constitution

### WHAT IS A CONSTITUTION?

In every State the powers of governing and controlling the Government must be given to some definite set of persons, and it must be clear how those powers are to be used. So in every State there are rules to settle these questions, giving powers to King, or President, Parliament or People. These rules are the **CONSTITUTION** of the State.

Constitution must be distinguished from law. In Britain there is a law which requires public houses to be closed at certain hours; another law compels Parliament to be dissolved not more than five years after its election. The former of these laws is simply a rule made for what is thought to be the convenient arrangement of everyday affairs; it takes for granted that there will be policemen to watch public houses, magistrates and judges to deal with offenders—in fact, the whole machinery of Government. The latter law, however, is concerned with this machinery itself, and is known as a constitutional law. Constitutional law, therefore, makes the machinery of Government; ordinary laws use it for whatever purposes are thought fit. This distinction is found not only in the laws of States, but in the rules of any society. A debating society will probably have a rule forbidding

any member to insult another in the course of debate; this will be an ordinary rule, and members will expect the Chairman to see that it is obeyed. Another rule will state how often, and by whom, the Chairman shall be elected, and this will be a constitutional rule.

Constitutions are not always made up entirely of laws. It is part of the British Constitution that a Government of which the House of Commons strongly disapproves, shall resign; this, however, is only custom, not law. The British Constitution, then, is the set of laws and customs which determine how the Government of Britain shall be chosen and changed, what persons shall carry out the various duties of Government, and what their powers shall be.

#### SOVEREIGNTY OF PARLIAMENT.

The first fact about the British Constitution is that Parliament is sovereign. The traveller returning from abroad must allow Customs officials to search his luggage, because an Act of Parliament gives them power to do so. The judge who sends a burglar to penal servitude must bear in mind the Act of Parliament fixing the maximum sentence for that crime; if the judge were to take bribes, he could only be removed from his office in the way laid down by another Act. Some of the law which judges administer is, indeed, older than Parliament; but this "common law" exists only as long as Parliament pleases, and is constantly being changed by Acts of Parliament, or, to give them their other name, Statutes.

But when it is said that Parliament is sovereign it is necessary to understand what the word "Parliament" means. People often say "Parliament" when they mean the House of Commons, or perhaps the Lords and Commons. Legally, however, Parliament means the King, Lords and Commons acting together, and to be exact, the Sovereign is "the King in Parliament". For this reason Acts of Parliament begin with the phrase "Be it enacted, by the King's Most Excellent Majesty, by and with the advice

and consent of the Lords, Spiritual and Temporal, and the Commons, in this present Parliament assembled, and by the authority of the same, as follows . . ." The Sovereignty of Parliament, in this full sense, is so complete that it controls even the separate parts of Parliament. King George VI is King because the Act of Settlement, 1701, conferred the throne on his family, and the Act of Abdication, 1936, set Edward VIII and his descendants, if any, aside from the succession. The King sometimes makes Proclamations, as that concerning the Coronation; but no Proclamation which contradicted an Act of Parliament would have any force. The House of Lords has the power, in certain circumstances, to prevent a measure which the Commons have approved, from becoming law until two years have gone by; but it has this power, and no more, because such are the provisions of the Parliament Act, 1911.

One apparent exception to the Sovereignty of Parliament serves only to prove it more emphatically. Once a year, usually in April, the Chancellor of the Exchequer "introduces his Budget"—that is, states to the House of Commons what taxes are to be collected in the next year. On the same day the Commons pass a resolution approving the taxes; later they will debate them and finally a Finance Act will be passed; but the Chancellor's plans have the force of law as soon as the Commons' resolution is carried. But this happens only because an Act of Parliament, the Provisional Collection of Taxes Act, 1913, states that on this one occasion a Commons resolution shall have the force of law. Thus is avoided the confusion in business which would occur if everyone knew on Budget Day what new taxes were coming, but had to wait several weeks till the Finance Act was passed and the new taxes became law.

The force of law can also be given, by Acts of Parliament, to Orders made by the Privy Council or by Ministers, or to by-laws passed by local authorities. If this were not done, Government would be impossible; no Act of Parliament could, for example, contain a list of all the places in Britain where cars

may be parked. This habit of "delegating" authority—that is, handing it over, on condition, to somebody other than Parliament—has steadily grown as the number of matters with which Government must deal, has increased. The advantage of the practice is that it makes quick decisions possible; the danger is that Parliament may give away so much of its power that it would be unable to reassert itself if it wished. The position can be understood from the Emergency Powers Act passed in 1920 when the Government feared widespread strikes. This Act gives the Privy Council power to proclaim a State of Emergency if it has reason to fear that any large section of the people may be deprived of the necessities of life. While the State of Emergency lasts the Government may issue orders restricting the people's rights to hold meetings, and commandeering property. But such orders must be approved by Parliament shortly after they are made, and if the State of Emergency is to continue for more than a month a fresh Proclamation and renewed Parliamentary approval will be necessary. This Act was used in 1926 and the summer holidays of M.P.s' were interrupted by the necessity for monthly meetings. It may well be argued that if the Government cannot use powers of this kind, a resolute group of people could overthrow it and set up a tyranny. On the other hand, the Government itself, in the first few days, or indeed at any time during a State of Emergency, might use its powers to such effect, arresting its opponents and seizing property, that it could ignore Parliament and rule in defiance of the law. The authority of Parliament can, like any other authority, be overthrown illegally, by force; the phrase "Parliament is Sovereign" means simply that it cannot be overthrown by any legal means.

But if Parliament is Sovereign, what is the position of the people? Has not the House of Commons to be elected, at least once every five years? It has; but only because the Parliament Act requires it. If the present Parliament chose to alter that Act and prolong its own life indefinitely, there would be no illegality. During the Great War a Parliament did in fact prolong its life,

as also did a Parliament in 1716.<sup>1</sup> This means that any Parliament could legally turn itself into a dictatorship. Yet, if it did, it would certainly be true that the British Constitution had been changed out of recognition: clearly, the Constitution is not only a matter of law, and to this point it will be necessary to return when the meaning of the word "unconstitutional" is considered. For the present it may be noticed that the Sovereignty of Parliament is limited by the fact that everyone expects Parliament to be periodically dissolved and re-elected, so that the last word shall rest with the people.

#### RULE OF LAW.

Closely connected with the Sovereignty of Parliament is the second great principle of the Constitution, the Rule of Law. In 1923 the Home Secretary arrested a number of persons and deported them to the Irish Free State. This deportation was contrary to law, and one of the victims took legal action against the Home Secretary. It appeared that he, and everyone who had helped to carry out his orders, were liable to heavy penalties, from which they were only saved by the passing of a special Indemnity Act. This event illustrates several important ideas. First, that what is supreme in Britain is the law; the Home Secretary, and the whole Government have power only to carry out the law, not to do whatever they think fit. The Latin tag *Salus populi suprema lex*—the welfare of the people is the supreme law—cannot be used by a British Government as an excuse for pursuing its own idea of the public interest without regard for legality. Second, that everyone is subject to the law; the engine driver and the ship's crew who helped to move the deportees could not plead that they were under orders; their business, like that of everyone else, was to obey the law, not to help the Home Secretary to break it. Third, that since Parliament can alter the

<sup>1</sup> The 1716 Septennial Act not only prolonged the life of the Parliament then sitting, but made seven years, instead of three, the maximum legal life of future Parliaments. This remained the law until 1911.

law, the Rule of Law reinforces the Sovereignty of Parliament. The Indemnity Act showed this plainly; here an illegal act had been committed and many people were liable to be prosecuted; the Law could remove the confusion by declaring that none of them were to be prosecuted. But, to get such a Law passed, the Government had to go to Parliament. This gave the Opposition the chance to demand the full facts, to criticise the Government publicly, and to secure that the Government, besides protecting itself should at the same time set up a special tribunal to decide what damages should be paid to the deportees for the inconvenience and loss of reputation they had suffered. The Rule of Law makes the Government subject to Parliament, and, through Parliament, to the people.

The meaning of the Rule of Law can be understood by considering what Government can be like without it. In France before the Revolution the nobility could disregard the ordinary law, and could punish and imprison their inferiors without putting them through any form of trial. In Britain to-day the law gives no such special privileges; everyone is subject to the same law. This is the meaning of the phrase "equality before the law." To-day in Germany the Government has power to imprison people without trial, or even people, such as Pastor Niemöller, who have been acquitted. Hitler's expressed wishes are, in fact, the law. Nearer home, the Home Minister of the Government of Northern Ireland has the power to detain suspected persons indefinitely without bringing them to trial. Where the Rule of Law prevails, no one can suffer any penalty or loss of liberty unless he has been tried and sentenced by a court; a man may, of course, be kept in prison while awaiting trial, but the period for which he is kept will be short, and defined by law.

#### ADMINISTRATIVE LAW.

It is possible to make exceptions to the Rule of Law without setting up a tyranny like those described above. In France there



exists what is called *droit administratif*—administrative law, or, more exactly, special law for officials. When a servant of the Government, in the course of his work, inflicts a wrong on any one, he cannot, like Mr. Bridgeman in 1923, be brought before the ordinary courts, but must be brought before a special type of court, which will determine whether he has acted in good faith and obedience to orders. A public servant who has so acted is thus protected without the need for a special Indemnity Act; on the other hand, officials, feeling secure, may be tempted to stretch their powers. *Droit administratif*, however, does not mean that officials can do as they please; indeed, where it prevails, a special study will have been made of the offences which officials are likely to commit and precautions will have been taken against them. Where the Government owns no law but its own wishes, there is tyranny; where it is subject to special laws, *droit administratif*; where it obeys the ordinary law of the land, the Rule of Law.

Are there any signs of administrative law in Britain?—or, to put the question more precisely, are there any persons, other than the ordinary courts, presided over by judges and magistrates, who can exercise judicial powers, deciding whether or not the law has been broken, and inflicting penalties? At first sight, Courts-Martial, which try members of the Armed Forces for certain offences, appear to fit the question. The Armed Forces, however, are not free from the ordinary law; the man who enlists puts himself under military law as well as the ordinary law, so the Rule of Law is not seriously challenged. Other examples are more significant. In 1927 a Trade Unionist objected to the support given by the Trade Union Congress to the *Daily Herald*, and asked the Registrar of Friendly Societies whether this was not an illegal use of their funds. The Registrar decided it was not, and the Trade Unionist took the matter to court. The judge ruled that since the Registrar had decided the matter, his court had nothing to say; the Registrar thus appears to have the power of deciding, in some matters, what is legal and what

is not. Under the Electricity Supply Act, 1926, the Electricity Commissioners have the power to close down certain generating stations if they are satisfied that the Central Electricity Board can supply more cheaply; whether the Board can in fact do this is to be decided by an arbitrator appointed by the Minister of Transport, who is thus given a judicial function. Any Act which gives the Government power to take over, or control the use of property, will create problems of compensation which must be settled by some kind of court. The ordinary courts would have been overwhelmed by pressure of business if special bodies had not been set up. Acts of this type have become more frequent since the War; those creating the London Passenger Transport Board, and the various Marketing Boards, are obvious examples. Similarly, there are Acts, such as those about Pensions and Unemployment Insurance, conferring rights on persons with certain qualifications; special authorities are set up to decide, in disputed cases, whether a person has these qualifications.

So while there has been no attempt to create a system of administrative law in this country, examples of it spring up here and there as need arises. To a large extent this cannot be avoided, because of the growth of Government activity. Danger appears, however, when the question "Is the Government keeping the law?" is decided by persons appointed by the Government. This danger may be avoided to-day by requiring that any arbitrators needed for special purposes shall hold their positions permanently, whether their decisions enjoy the approval of the Government or not; and it will probably be wise to see that at least one arbitrator is a person with legal experience. But just because this administrative law has been added to the Constitution bit by bit, the principles which it involves have never been considered. This is in accordance with the English political habit of mind, which prefers treating particular problems to examining principles, and does not meet its troubles half-way.

It is worth while emphasising that all the bodies which exercise this administrative law get their powers from Acts of Parliament;

whatever assaults have been made on the Rule of Law, the Sovereignty of Parliament remains.

#### AN "UNWRITTEN" CONSTITUTION.

Such is the foundation of the British Constitution. Why is it often called an "unwritten" Constitution? Some of the most important parts of it—the Act of Settlement and the Parliament Act—are written. A foreigner could get quite a fair idea of how law is made, and what the powers of the Government are, by consulting the Statute Book. But his idea would not be complete; he would not learn from the law that the Government must resign when a Vote of Censure has been passed upon it by the House of Commons. He would, however, find that the most recent Finance Act gave the Government power to collect Income Tax for the coming year only. The Army and Air Force Act likewise, gives power to maintain these forces for one year. So a Government which ignored a Vote of Censure would before very long be deprived of the means of governing legally; it would have to resign or defy the law. The "unwritten" parts of the Constitution, are for the most part obvious deductions from that which is written.

The real fact which the phrase "unwritten Constitution" tries to express is that there has never been any attempt to write the British Constitution, as a Constitution, separate from the rest of the law. In the Middle Ages it could have been said with truth that the Constitution was unwritten; but a series of conflicts between King and Parliament, Government and People, have ended in the writing down of final decisions on the points in dispute. So the British Constitution has been made, like the British administrative law, bit by bit as need arose. This has an important result. The laws about the Constitution, having been made just as other laws, can be altered in the same way. A Bill determining hours and conditions for factory workers and a Bill determining the succession to the Crown must go through exactly the same processes in order to become law.

Contrast with this the U.S. Constitution, the best known example of a "written" Constitution—i.e. one which is separate from the rest of the law. Congress—the nearest U.S. equivalent to the British Parliament—can make laws, but if these conflict with any article in the Constitution, the Supreme Court can declare them "unconstitutional". The Constitution itself can only be altered by an elaborate procedure requiring the consent of 36 out of the 48 States. Similarly, in France, the alteration of the "fundamental laws" requires the calling of a special Assembly. The advantage of such a plan is that sweeping changes in the Government cannot be made simply because one party gained a victory at the last Election, perhaps on some quite different issue. It is a particularly suitable plan for a country formed as a Federation of separate States; for the States might never join the Federation unless they had a guarantee that their rights could not be taken away by a mere majority vote. The British North America Act for example forms a Constitution for the Dominion of Canada, and was intended to protect the French-speaking minority. The drawback to a fixed Constitution is that it may prevent the law changing as quickly as is desirable. When, in accordance with President Roosevelt's policy, Congress made laws affecting conditions of labour, the Supreme Court declared them unconstitutional; so a minority of the people, by preventing amendment of the Constitution, could block the reforms. The 18th century Constitution makers did not foresee 20th century industrial problems. The British Constitution is called a "flexible" Constitution, as contrasted with "rigid" Constitutions, like that of the U.S.A.

#### WHAT IS UNCONSTITUTIONAL?

What meaning, then, has "unconstitutional" in Britain? There is nothing equivalent to the U.S. Supreme Court. No British court can declare a law unconstitutional; if a law had not been made in the way laid down by the Constitution, it would not be a law at all. It seems to follow that everything which is unconsti-

tutional must also be illegal. If the Prime Minister told a judge to resign, this would be called unconstitutional, and rightly, because it would be illegal, being contrary to the Act of Settlement. It used to be unconstitutional for the President of the Board of Trade to sit in the House of Commons; an alteration of the law has now made it constitutional. But it does not seem satisfactory to say that the only unconstitutional actions are those which defy the laws about the Constitution; for the word is used in everyday speech in a much wider sense. An examination of its use will help to explain the matter.

If the King expressed in public a disagreement with his Ministers, and with the majority in Parliament, this would be called unconstitutional. Such an action by the King would be an attempt to get support and power for himself against Parliament. But no one can govern legally without Parliament; so the King's act would be a first step to illegality. It is reasonable to call unconstitutional any actions which naturally lead to a breaking of the constitutional laws, as well as actions which break those laws straightaway.

A Parliament which in due legal form altered the Parliament Act and prolonged its own life would be said to act unconstitutionally, unless, as during the War, it was the obvious wish of the people that this should be done. Here is to be found the one really important unwritten part of the Constitution—the assumption that the purpose of the Constitution is to give effect to the will of the people. So any action, however legal, may be called unconstitutional if its purpose and effect are to take power out of the hands of the people: Democracy is the unwritten basis of the Constitution.

This statement is open to challenge. Britain has not been a democracy long—certainly not before the 19th century. How can so recent an idea be the basis of a Constitution which is centuries old? And if democracy is to be a fundamental principle, why not private enterprise as well? At present most of the land and industry of the country is owned by private persons; this

fact is quite as solid and important as the fact that everyone has a vote. Does it not follow that any actions, however legal, which aim at transferring land and industry to public ownership, are unconstitutional? When an association of anti-Socialists calls itself a "Constitutional Club", this is presumably what it means. But is there any end to this process? By a like logic, laws giving greater freedom to Sunday entertainment, or providing easier divorce could be called unconstitutional by those who dislike them.

The following conclusion may be drawn:—If the word "unconstitutional" is intended to describe matters of fact, it should only be applied to actions which defy, or will lead to defiance of, the constitutional laws. So, in this sense, no law or proposal to make a law can be unconstitutional. The word is also used of matters of opinion, and anyone may fairly call even a law or proposal unconstitutional if he is convinced that it would be contrary to the proper purpose of British Government. There is this justification for calling laws which attack democracy unconstitutional—that clearly the proper purpose of all law and Government is to express the will of the governed. This or that policy about industry or Sunday entertainment can be submitted to the test "Does it give us what we want?"; but the idea of governing by the people does not need to be submitted to such a test; it *is* the test. Nor is it a test which has only been applied in recent times. Long before England could have been called a democracy, sections of the people who had a grievance would claim that the practices to which they objected were contrary to the liberties and desires of the people. Democracy, as it is understood to-day, is the modern form of this ancient appeal on behalf of the public welfare.

The Constitution gives powers to Parliament and Government, but always with the implied reminder, "This power is to be used to give effect to the will of the people." English law often falls back on this last appeal to commonsense and reasonableness. In a trial, the prisoner's guilt must be proved "beyond reasonable

doubt"; it is illegal to say in public things so provocative that a "reasonable" man may fear they will cause a disturbance. To translate this idea of reasonableness into law such as courts can declare and citizens obey, is not easy, and the Constitution often appears a tangled maze; but the clue to it is the idea of reasonableness.

#### THE DEFENCE OF LIBERTY.

Yet, since it is true that a Government with a majority in Parliament can legally do as it pleases, the legal defence against tyranny seems weak. Tyranny, however, cannot be set up by law alone; a Government with this ambition must control armies, police, law courts and the Press. The real defence for British liberty lies in the arrangements which make it difficult for a Government ever to become strong enough to twist the Constitution towards dictatorship without provoking revolt. Some students of the British Constitution have argued that it checks the Government by the device called SEPARATION OF POWERS. Three powers are necessary for organising a State:—Legislative power to make laws, Executive power to carry them out, Judicial power to apply the law to particular problems. One view is that if these powers are placed in separate hands no one body of people will be strong enough to be tyrannical, and each power, jealous for its own authority, will keep watch on the others. At first sight the British Constitution appears to use this plan: the King and his Ministers carry out the law; the King in Parliament makes it; the judges and magistrates exercise judicial power. Until the 17th century this would not have been a bad description of the Constitution, and the Separation of Powers did then help to preserve liberty. It was because Charles I could not by himself make laws to compel people to pay taxes that he had to ask Parliament, and Parliament, thus brought to the front of the stage, was able to voice the general criticism of Charles' Government. This does not mean that Parliament won the Civil War by a legal device; it won by wealth

and armies; but Parliament's authority as the law-making body made it a centre round which opposition to the King could rally. Separation of Powers, however, can do the work of weakening government too well. Charles II and his Ministers declared war on the Dutch—an executive action, within their constitutional rights; but only Parliament could make the laws to provide the necessary money; Parliament was not inclined to do so, and the Dutch fleet sailed up the Medway. Since then the legislative and executive powers have been fused in that section of the King's Ministers called the Cabinet. These Ministers are the real Executive; but they are also in Parliament and largely control Parliamentary business. None the less, they must be prepared to face questions and criticism in Parliament; any suggestion that they are trying to evade Parliament's authority by giving it too little time to discuss measures, will cause much indignation, even among M.P.s who usually support the Government. The gap between Legislature and Executive has been bridged; but the bridge rests on good relations between the Government and the majority in Parliament. Separation of these two powers, therefore, is no longer a permanent principle of the Constitution; it is a possibility, kept in the background and available for use against a Government which fails to recognise the Sovereignty of Parliament. 3647

When the Judicature is considered, the Separation of Powers is more obvious. One of the results of the 17th century struggle is that judges cannot be removed from office by the Government of the day, and so need not hesitate to declare actions of the Government illegal, if necessary. When the police searched the premises of Mr. Wal Hannington, and removed documents about the National Unemployed Workers' Movement, of which Mr. Hannington was a leader, he was able to bring an action and secure judgment against them. This judgment could not have been pleasing to the Government, of which Mr. Hannington was an opponent. So separation of the Judicature from the Executive is certainly one safeguard against tyranny. At the head



of the Judicature, however, is the Lord Chancellor, who also, as a member of the Cabinet, belongs to the Executive, and as a member of the House of Lords, to the Legislature. So the Separation of powers is not complete; but there is sufficient of it to have considerable effect on the character of the Constitution.

The U.S.A. again provides a contrast here. The President and his Ministers cannot be members of Congress. For this reason, Walter Bagehot, in his book on the English Constitution, speaks of "Presidential Government" when he means complete separation of Legislature and Executive, and "Cabinet Government" when he means the fusion of the two on the English model. He remarks that since Cabinet Government offers to the successful politician both kinds of power, it will attract an abler type of man into politics than will Presidential Government. The reader must look at representative British and American politicians and form his own opinion. It should be remembered that in this country, as contrasted with the U.S.A., politics was regarded as a distinguished career before the opportunity of making great wealth in industry was as great as it is to-day. Industry and commerce do not therefore absorb so large a proportion of able people. The U.S. system works conveniently enough when the President and the majority in Congress are of the same Party; when they differ, the danger of paralysis of Government appears. The widespread belief, that the U.S.A., after fostering the idea of the League of Nations in 1919, backed out of it, arises from a failure to realise that President Wilson, of the Democratic Party, had not all the powers of Government; he could not do all he wished when the majority in Congress was Republican.<sup>1</sup>

Our other defence of liberty is what might be called the "negative principle". For the most part, the law does not say what citizens may do, but what they may not do. It may be assumed that whatever has not been declared illegal, either in

<sup>1</sup> Republicans and Democrats are the chief parties in the U.S.A.: the words have not the same meaning as in ordinary speech in this country.

cases already tried, or in Acts of Parliament, is legal. No law guarantees the liberty to write or print what one likes; but several laws say what may not be printed (e.g., incitements to crime) and anything apart from these forbidden things may be published. There is some safety in the fact that any restrictions on liberty require Acts of Parliament, and can thus be exposed to public criticism.

#### OLD AND NEW IN THE CONSTITUTION.

The following principles, therefore summarise the British Constitution:—Sovereignty of Parliament; Rule of Law; flexibility; belief that Government and Parliament will use their powers reasonably to express the will of the people; partial Separation of Powers, and the rule that whatever has not been forbidden is legal. In the chapters that follow it will be useful to see how these ideas are realised in the day to day working of our Constitution. It must, however, be noticed that the English have fashioned their Constitution piecemeal, and the result is that many old names and customs still survive, sometimes without meaning, sometimes with new and quite different meanings attached to them. Patience is necessary to sort out appearances from realities. The King, for example, is called "Our Sovereign Lord"; it then appears that Parliament is Sovereign, and the King must do as his Ministers advise; then, that the King appoints his Ministers; yet also, British Government is Government by the people. Again, when an M.P. proposes that a Minister's salary should be reduced, or that a Bill be read this day six months, he really means something quite different. This love of old forms sometimes hampers business, and may well rouse the indignation of those who wish to see the Government working quickly and efficiently. On the other hand, it must be admitted that the English have been surprisingly successful in their politics. They freed themselves from the chains of feudalism earlier than many nations; they came through the great changes of the 19th century, not without agony, but without civil war;

and their high standard of life is in some measure due to these facts. This success must in part be attributed to the habit of fitting the new and the old together. Neither the English nor anyone else can put new wine into old bottles; but the English are quite prepared to call the new bottle an old one, if that will make people more willing to use it.

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\*BAGEHOT. *The English Constitution.*

\*DICEY. *Law of the Constitution.*

\*CLARKE. *Outlines of Central Government.*

# PART ONE

## CARRYING OUT THE LAW : THE GOVERNMENT

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### CHAPTER III

## THE MONARCHY

#### Political Activities :

Executive

Legislative

Judicial

Royal Prerogative

Honours

The Church

Social Activities

Personal Affairs

Imperial Functions

Conclusions

“George the Sixth, by the Grace of God, of Great Britain, Ireland, and the British Dominions beyond the Seas, King, Defender of the Faith, Emperor of India.” This is the official title, to which the Bidding Prayer adds, “over all persons, and in all causes, within his Dominions, supreme.” From an examination of these words will arise a complete account of the monarchy.

George VI succeeds to a throne held before him by his brother, father, grandfather, and a long line of ancestors, so that it is natural to say that the Kingship is hereditary. This would not be quite true; for although it has always been recognised that the Kingship belongs to a certain family, there has been, from early times, a belief that the chief Assembly of the country—in turn, the Saxon Witan, the Great Council, and Parliament—have the right to decide which member of the family shall be King. In 1199 the right of King John as against Prince Arthur, was

defended on the ground that the barons had approved John, though they may have regretted it later. The Act of Settlement disposed of the matter by setting James II and his descendants aside, and fixing the succession on another branch of the family, where it has remained ever since, except as modified by the 1936 Abdication. So George VI reigns not only by the Grace of God, but by Act of Parliament. This is tactfully omitted from his title, but not forgotten in the Oath of Allegiance taken by M.P.s: "I will be faithful to H.M. George VI, his heirs and successors *as by law appointed*."

To understand the monarchy one must ask what the King does; how he does it; and, arising from this, how far his actions reflect his personal wishes, and how far he must act as he is advised. In examining what he does attention will first be directed to those actions which are immediately connected with Government; and these can be classified accordingly as they are connected with the Executive, the Legislature and the Judicature.

#### POLITICAL ACTIVITIES.

1. *Executive.* The King is the head of the Executive, but since he cannot do everything himself he must have Ministers. These he must choose or approve; the practice to-day is for the King to choose the Prime Minister; the latter then prepares a list of Ministers and submits it to the King for approval. But, when choosing the Prime Minister, the King must remember that a Ministry which has not the support of a majority of the House of Commons will be unable to govern for lack of money. The usual effect of this is that the King chooses the leader of the party which has a majority. So, at the 1935 General Election, the elector was choosing whether Mr. Baldwin or Mr. Attlee should be Prime Minister; and by providing Mr. Baldwin with a majority, he created a situation in which the King could not appoint, or, as the phrase is, "send for" anyone else. But sometimes there is more than one person who would be able to get majority support, and then the personal wishes of the King can be effective. In

1923 Mr. Bonar Law, the Prime Minister and leader of the Conservative Party, retired owing to ill-health. Since the Conservatives held a majority, the King had to send for one of them, but it was not clear whether Mr. Baldwin or Lord Curzon was to be their leader. The King settled the matter by sending for Mr. Baldwin. In 1931 Mr. Ramsay MacDonald, finding that his Labour Government could no longer rely on its Labour-Liberal majority, resigned. The King might have sent for Mr. Baldwin, as the leader of the next largest party; he did in fact send for Mr. MacDonald and ask him to form a new Government, containing members of all parties. This new Government did not survive simply because the King had suggested it, but because a majority in Parliament approved, and because it won the next election.

The Prime Minister, thus chosen, must get the King's approval for the list of Ministers. Here again the King may exercise personal choice; he may say, "I do not want such and such a man among my Ministers." The Prime Minister can give way, or, if he prefers, offer to resign; but if he is the only person who can get a majority, then the King must give way. Queen Victoria had a strong objection to Henry Labouchere, who frequently opposed grants of money for the Royal Family; and her objection kept him out of office. It would not have done, had the Prime Minister been as determined to get him in as the Queen was to keep him out.

Political parties to-day are highly organised, and most people know who are the leaders and chief figures in them. So, when any Party has won an election, it is clear who is going to be Prime Minister, and shrewd guesses can be made as to who will fill the other posts. In the 18th century, when Party organisation was not so developed, the King's own wishes were more likely to be fulfilled.

The Ministers have the task of carrying out the law, and framing new laws to submit to Parliament. Throughout this process, there will be many documents for the King to sign. If he wishes, he can become a "rubber stamp King", signing as

he is asked; but this is not what the Constitution requires or expects. Time would not allow him to discuss every matter needing his signature, but he can always require his Ministers to discuss with him the topics of chief importance. This right he usually exercises. Lord Palmerston, when Foreign Secretary in the middle of the 19th century, lost his position because he tried to ignore Queen Victoria's right to be consulted. In these discussions on policy, the King may express his own opinion freely, on two conditions. The first is that it must not be made public. If it were generally known what the King's opinions were, he would be drawn into the conflict of parties. The party with which he agreed would make the most of the fact as a way of getting votes; while an election victory for the other side would be a defeat for the King. Prime Ministers can endure to be defeated, because they can go into opposition; for Kings who are known to be in disagreement with the majority of their people, there is scarcely any place but exile. The second condition is that, in the last resort, the Minister's wishes would prevail. If the King were to persist in opposition, the whole Ministry might resign; then, if they had a majority, they could prevent any other Ministry from governing, and so oblige the King to send for them again and accept their views. Such a chain of events is possible; but it is not likely. Ministers do not go to discussions with the King armed with the threat of resignation, ready to produce it at the first sign of opposition. So long as both King and Ministers understand the Constitution, the discussion can go on amicably. At the end of it there will emerge a policy with which the Minister will agree, though it may not be exactly the same policy as he proposed at first. The King's views may have modified the Minister's opinion. The King may or may not agree with the final decision; but at least he has been able to discuss and criticise and perhaps affect policy. By these discussions the personal wishes of George Windsor are turned into the constitutional will of the King of England.

The King can therefore be thought of as an expert adviser

to his Ministers, comparable to a highly placed Civil Servant. A Minister may ask such a Civil Servant his opinion; the Civil Servant, like the King, will have a personal opinion but must not express it in public; and, like the King, he must finally accept the Minister's view. But while the Civil Servant may be, the King must be consulted; with both the Minister has the last word, but his attitude will not be the same with both. He is the Civil Servant's chief and can decide for himself what the length and form of the discussion will be; but, in name at least, he is the King's servant and is expected to express this idea in speech and manner when the King consults him.

The fact that discussions with the King are private make it hard to say how great his influence is. Much will depend—and here again there is a parallel with the Civil Service—on the character of the persons concerned. An incompetent Minister may be grateful to anyone who will tell him what to do; an able one will not need to have ideas put into his head but will know how to use advice. Though it is not certain how matters have stood in the most recent reigns, the publication of Queen Victoria's letters gives much information about the influence of the Crown in the past. She appears, expressing her strong disapproval of some lines of policy; her encouragement of others; suggesting who shall be appointed to an Archbishopric; indignant when the wisdom of her suggestions is politely questioned; delighted when she gets what she wants; and judging to a nicety when the time has come for her to give way. Her native shrewdness and industry, coupled with her long experience made her influence great. She occasionally tried to make it greater than the Constitution allows; and it is possible that the influence of the Crown has not been so great in later reigns.

As Head of the State, the King has control over the Army, Navy and Air Force, and the importance of this fact has already been noticed. With this control goes the power to make peace and to declare war; but these actions, like the rest, go through the process of Ministerial discussion.



2. *Legislature.* The King is part of the Legislature, i.e., Parliament. No Bill can become an Act without his Assent. But the King will give his Assent if his Ministers so advise; and no Bill of which Ministers disapprove would have struggled through the Lords and Commons and so become ready for the Royal Assent. The Assent has thus become a pure formality, and has not been refused since the reign of Queen Anne. Even on that last occasion the Queen was not opposing her Ministers. The Ministers were using the Royal power to prevent Parliament doing something of which they disapproved. The party system of to-day links Ministers so closely with the majority in Parliament that no such situation can arise. This giving of Assent is the only purely legislative action of the King; all the others are, strictly speaking, Executive actions, but some of them are so closely concerned with the Legislature and the Judicature that it is convenient to deal with them under those headings.

The King can summon Parliament, prorogue it—i.e., bring one Session's work to an end—and dissolve it. Since there can be no legal governing for long without Parliament, the King is obliged to summon it and re-assemble it after prorogations with regularity. For the same reason he cannot dissolve it without requiring the election of a new Parliament; Dissolution thus becomes an appeal to the people. The King normally uses this power as His Ministers advise him; consequently, a Ministry which feels it is losing the confidence of Parliament can dissolve it and discover at an election what the people think. This is most likely to happen in "three-cornered" Parliaments, where the Government has not a clear majority over all parties. The Government is also able to choose its own moment for an election—within the limit of the maximum legal life of Parliament—and this gives it a tactical advantage. Thus the Election of 1935 came shortly after a very successful speech at Geneva by the Foreign Secretary. It may be claimed that this advantage is only a fair compensation for the fact that the Government has, at elections, the task of defence, which is always harder than attack.

If an election is legally bound to come within, say, the next twelve months, it is natural for the Government to pick what Mr. Baldwin once called a "less unfavourable" moment. But if the Government wanted a "snap" election, out of the normal time, because its chances were good, the King would be on strong constitutional ground in refusing to dissolve. Standing outside parties, he has the duty of seeing that the Constitution is not thus twisted to party advantage. The Government could of course get what it wanted by resigning, going into Opposition and hampering its successor; but this would not be a popular move and the tactical advantage would be lost. By objecting to a Dissolution the King, in effect, puts this question to the Government "Why do you want to dissolve? Is it because you think it necessary for the country, or to gain a party advantage?"

Can the King dissolve Parliament even if his Ministers do not wish it? According to the general rule, that in all public actions, the King must take his Ministers' advice, the answer should be No. Circumstances might arise, however, in which the King could say to the Prime Minister, "You are proposing to start on a line of policy which is new and was not discussed at the last election. Ought you not to get the country's opinion first? You say I should take your advice because you represent the people. How do you know? It is three years since the present Parliament was elected, and your Government's candidates have been defeated at several by-elections lately. You had better fight an election and see if you have the people's support." Such circumstances can be imagined; but if they really arose, the Prime Minister himself would probably realise the necessity for an election. Further, a King who acted thus would run considerable risk; for if the Government won the election, it would be very like a victory over the King, and his advice would not carry so much weight in future.

One part of the Legislature, the House of Lords, is specially connected with the King, since he has the power to create Peers with the right to sit in that House. A Government with a

majority in the Commons, but not in the Lords, can, in the last resort, advise the King to make a sufficient number of its own supporters Peers to give it a majority in both Houses. Such a "swamping" of the House of Lords has never occurred, though on two occasions—in 1832 and 1910—it has been threatened, and the threat was enough to make the Lords give way. It is sometimes suggested that before agreeing to create Peers on this scale the King could insist on dissolving Parliament, to ascertain the country's wishes. Certainly, on both the occasions mentioned, Dissolutions did occur, but there is no reason to suppose that the Governments of the time were unwilling to have them. The great majority in the House of Lords is Conservative, so that it is only an anti-Conservative Government which will ever need to use the "swamping" weapon. If special difficulties are to be put in the way of its use, the constitutional scales are tilted in favour of the Conservative party.

There is a historical interest in the creation of Peers. What was once the personal right of the King to summon whom he pleased to the Great Council to give him advice and grant him money is now a tool with which the people, through the Government they have chosen, may prevail over the Peers.

This connection with Parliament is probably the sphere in which the King's personal wishes may be most important. They will not be constantly at work, but will emerge at a crisis, when the question is raised, What is the real will of the people? It has already been suggested that the underlying purpose of the Constitution is to give this will effect; it now appears that a function of the King is to hold the Constitution to this purpose, and to recall Governments which stray from it. If the King is to perform this duty properly, it is extremely important that he should be in touch with all sections of opinion in the country.

3. *Judicature.* All justice in Britain is the King's justice; he is "over all persons and in all causes, within his Dominions, supreme." The chief judges are appointed by him, on the advice of the Prime Minister; they can be removed from office by him

if an address to that effect is presented to him by both Houses of Parliament. The Lord Chancellor, being a Cabinet Minister, must have his appointment confirmed by the King; and Justices of the Peace are appointed by the Lord Chancellor. All crimes are considered offences against the King; thus the trial of Armstrong the poisoner is described as *Rex v. Armstrong*. Now if someone writes a libellous statement about me, I can bring an action or not, as I please. Similarly the King can decide whether or not to proceed against a suspected criminal, or, if the trial has begun, can bring it to an end at any time by saying that he does not wish to go on with it. Such a decision will in fact usually be made by the Director of Public Prosecutions; or, if the case has a political importance, the Cabinet will decide. A political sensation was created in 1924 by the decision of the Labour Government not to proceed with the prosecution of a Communist. When a criminal has been convicted and sentenced, the King has the right to pardon him freely or on conditions, or to reduce the sentence. Petitions to the King to do this are sent to the Home Secretary, on whose advice the King acts. This "Prerogative of Mercy" is useful, because judges, juries and magistrates can make mistakes, and because the working of the law may prove too harsh in special cases.

#### ROYAL PREROGATIVE.

This account of the King's political work shows the importance of his position. He influences each of the three powers of Government; actions of Government are carried out in his name. Thus the phrases "Our Sovereign Lord", "Head of the State", "Fountain of Justice and Honour" become understandable. But at every point he is surrounded by Ministers through whom he must act. To make his will effective, there must be some document—a Patent to create a Peer; a Writ to order an election; a Commission to an Army Officer, a Proclamation to declare a State of Emergency. Every one of these documents must bear the signature of a Minister, or have attached to it the Great

Seal which is in the keeping of the Lord Chancellor.<sup>1</sup> So for every Act a Minister is responsible. If an act is thought unwise those who think so can criticise the Minister; if it is illegal, the Minister can be prosecuted. It is no defence, for an illegal act, that it was done at somebody's orders, even the King's. Danby, one of Charles II's Ministers, got a written statement from Charles that certain illegal acts were being performed by Royal command, but it did not save him. The King himself is not criticised nor can he be prosecuted. Thus, in the old phrase, "the King can do no wrong"; but he cannot do anything in Government without his Ministers—and they can do wrong and be brought to account for it. The phrase further means that whatever the King, as a person, does, he cannot be prosecuted. In Shakespeare's play, *Henry V*, when Prince of Wales, committed an assault and was dealt with by the Lord Chief Justice. When he was King, he could have beaten the Lord Chief Justice to his heart's content and no court could have tried him. This is an odd situation: but since no one expects the King to take advantage of it, it is left alone. In the last resort the King can be removed by an Act of Abdication, to which he must give his Assent as to all other Acts, if his Ministers advise.

The word "Prerogative" can be defined as the sum total of powers belonging to the Crown. In earlier times the Crown was supreme, except for the checks imposed by the customs of the feudal system. The gradual writing down and altering of these customs has given certain powers to Parliament and left the rest with the Crown; this remainder forms the "Prerogative". Even this is exercised through Ministers. The final conclusion must be that the King as a person has the right to discuss policy freely with his Ministers; it is the King as King—as an institution or part of the Government—who exercises the Royal Prerogative. The word "Crown" is often used to describe the King as an institution; it has the convenience that it will serve also for Queen, when there

<sup>1</sup> One Lord Chancellor, Lord Brougham, used to make pancakes in it: but this was not a Constitutional usage.

is a Queen as Sovereign. At the sight of the word "King" it is wise to stop and consider what is meant. When newspapers report that the King has visited a factory and commented on the working conditions, it is presumably his personal opinion; when they report the "King's Speech" at the beginning of a session of Parliament, the word refers to the Crown, and the policy expressed is the policy of Ministers.

#### HONOURS.

By no means all the King's activities are political. There are two spheres of work which are on the border of political and non-political. Not only Peerages, but Knighthoods, Orders of Merit, Companionships of Honour, and many other Honours are conferred by the King. New Year's Day and the King's Birthday are the usual occasions. Some of these Honours have no political meaning—for example, the dignity of Dame conferred on Ellen Terry. They are a recognition of eminence in any walk of life and mark a definite stage in the career of a lawyer or Civil Servant. All Honours Lists, however, contain a fair sprinkling of Knighthoods and lesser distinctions conferred on the Chairmen of the local organisations of the party in power, or on those of its supporters in Parliament who have not, perhaps, obtained distinction in other ways. In 1922 a scandal arose because many people had obtained Honours by contributing generously to the Party funds of the Coalition. No flagrant example has occurred since; but it can hardly be doubted that a generous gift will at least help the Party chiefs to remember one's name when the next list is being prepared for the King's approval. Political Honours have thus lost most of their lustre, and there are probably many people in political life who would decline them. At King George V's Jubilee in 1935 Honours were conferred on some members of the Labour Movement, although a Conservative Government was in power. There was some feeling in the Labour Party that they should have been refused, as inconsistent with the Party's belief in social equality. Any

party, however, is obliged from time to time to create Peers because the Peerage, alone among Honours, carries with it some political power.

#### THE CHURCH.

As the words "ecclesiastical as well as civil" imply, the King is Head of the Church of England. He is accordingly forbidden by the Act of Settlement to be, or to marry a Roman Catholic, and, at his Coronation, swears to maintain the rights of the Established Church. He is crowned by the Archbishop of Canterbury. The Coronation is, indeed, a religious ceremony and an occasion for merrymaking. It has no constitutional importance; as soon as the reign of one King ends, that of his lawful successor begins. As Head of the Church, the King appoints Bishops, in accordance with the advice of the Prime Minister and is specially referred to in the Prayer Book. Henry VIII was the first King to take up this position. At that time it was of great political importance because it meant that the Pope had no longer any authority, even in Church matters, in England. Curiously enough, Henry VIII was also the first King to bear the title Defender of the Faith; it was conferred on him by the Pope, before they quarrelled, in recognition of an attack which Henry had made on the views of Martin Luther; it has descended to the King of England to this day.

#### SOCIAL ACTIVITIES.

When the King's political and semi-political work is done, a host of social activities waits for him. He will be asked to open hospitals, libraries, public buildings of all kinds; to lay foundation stones; to hold Courts and garden parties. In recent years these activities have been extended so that the King shall have the opportunity of seeing the lives of his poorer subjects, as well as those of the Court circle. Here also he must be careful to avoid any suspicion of party bias. Edward VII once withheld invitations to an M.P.'s garden party, from Keir Hardie and two other

Labour M.P.s of whom he disapproved. Now, their constituents might have thought "We do not want an M.P. whom the King dislikes, and we will vote against him next time". It was an attempt to use the social prestige of Royalty for a political purpose. The Parliamentary Labour Party took the matter up, and assurances were given that the mistake would not be repeated.

#### PERSONAL AFFAIRS.

Possibly, when these labours are completed, the Royal Family are, like other people, able to enjoy a private life. It cannot be easy for them to do so, since their least action is the subject of comment in the Press, particularly the picture-papers. They have to exercise constant care lest their acts should be given a meaning which was never intended. While some Princes of the Royal Blood have the right (which they do not exercise) to sit in the House of Lords, the Queen Consort<sup>1</sup> has no legal part in Government. But the fact that she is the King's wife, and her position in the Court, make the question, who is to be Queen, one of great public interest. The history of Edward VIII's Abdication seems to lay down the principle that the King's marriage is a matter in which his Minister's advice may prevail. The King is required not to take advice from anyone except his Ministers; consequently the choice of some members of the Royal Household is under Government control. Clearly, however, it would not be possible or reasonable to prevent the King's discussing his work in private with his wife. During George V's illness in 1928 Queen Mary was appointed one of the Council of Regency; so it may reasonably be supposed that she frequently discussed public affairs with the King. The extent to which Queen Victoria valued the advice of her husband, the Prince Consort, was well-known and sometimes resented by her Ministers.

The King's income is drawn partly from the revenues of the Duchies of Cornwall and Lancaster, and partly from a sum

<sup>1</sup> A Queen who is the wife of the reigning King is called Queen Consort: a Queen in her own right, like Queen Victoria, is called a Queen Regnant.



granted by Parliament at the beginning of each reign. Out of this "Civil List" totalling about £400,000, provision is made for the King's private expenses and those of maintaining his Court, and for some members of the Royal Family; Civil List pensions are also granted to people considered to be deserving and in need. Like anyone else, he may save out of his income, and the savings of previous Sovereigns have accumulated a considerable purely private fortune. When this income, and the unavoidable expenses of Kingship are considered, it appears that the King is certainly very wealthy, though probably not as wealthy as some of his subjects.

#### IMPERIAL FUNCTIONS.

The King fits into the Constitutions of the self-governing Dominions very much as into the Constitution of this country. His work has to be carried out, however, by Governors-General who have not the same personal prestige. Every citizen of the Commonwealth or Empire is the King's subject. This is important because it means they enjoy a common citizenship. An Australian or a native of Kenya entering this country is not an alien. One of the chief arguments advanced in favour of monarchy is that it serves as a link of Empire. The Dominions guard their independence jealously; they are not prepared to admit the supremacy of the Parliament that sits at Westminster, but are prepared to recognise the King as the common Head of their Parliaments and ours. There are other bonds of Empire, probably stronger than this—the tie of blood, the trading and investment relationships, the conviction that in the event of foreign attack the Dominions would act together. If these vanished, it is doubtful whether the monarchy alone could unite the Empire. The King does not so much create Imperial unity as symbolise it. Men have a strong inclination to personify the ideas in which they believe. In the Kingship they see the idea of Commonwealth and Imperial unity personified.

## CONCLUSIONS.

Why has the monarchy survived? Will it continue? What are its advantages and disadvantages? England has witnessed the same conflicts between feudal lords, between industrialists and landowners, between rich and poor, employers and proletariat, as have other countries. Each party in the contest, however, has wanted to get the stamp of legality on its own proceedings. A victory of any section or class has been followed by an alteration in the powers of the Crown to suit the victor's convenience. The monarchy has been, not so much the citadel of one section's power, as the trump card available for whoever could get the reality of power by wealth or arms. One may take the trump card from one's opponent by force; but one does not tear it up. When Cromwell destroyed the monarchy, he may have thought that act an unavoidable necessity at the time; but it weakened his position and helped to provoke the reaction against him. When the Whigs and Tories at the "Glorious Revolution" of 1688 confirmed his work they took care to alter the monarchy rather than abolish it; and even then they claimed they were not altering it but restoring it to its original form.

Monarchy is thus a device for securing obedience to whoever controls the Government. As Bagehot remarks, "The Monarchy . . . gives a vast strength to the Constitution by enlisting on its behalf the credulous obedience of enormous masses"—and he adds that as long as the human heart is stronger than the human reason, monarchy will survive. Now this is a good argument for monarchy if it is granted that the mass of people are too stupid to see why a Government ought to be obeyed. It might well be a help to the most "Left" of Parties that, once it had a Parliamentary majority, it would become "His Majesty's Government". If anyone attempted to oppose it by force he could be represented as a traitor to the King, and this might win the Government the "credulous obedience" of some people. But a device which gets obedience on unreasoning grounds is a dangerous thing, since it can protect good and bad Government

alike. If Bagehot is right, and the mass of men must be governed by a few who are wiser than they, monarchy will serve very well; but what place has it among a people who think about politics and try to govern themselves?

One answer has already been suggested in the examination of the King's powers over the Legislature in times of crisis. He is to be the voice of the Constitution, proclaiming that there is, binding on all Parties, the duty to respect the people's will and to allow that will to form itself by free discussion. Can the King fill this position? Despite his frequent appearances among all ranks of the people, the intimate friends of the Royal Family will all be wealthy. Thus the Court easily becomes the centre of snobbery; and the tendency of part of the Press to fawn on the Royal Family aggravates the evil. It is not easy for a man to do the constitutional work of King when the suggestion is ceaselessly made to him that whatever he does is right and marvellous. The old story of King Canute's rebuke to those who said he could rule the tides still adorns many school books: its lesson—that Kings are not Gods, and flatterers are not friends—seems to have been lost on some newspaper proprietors. This evil might be remedied by simplifying the ritual of the Court; money would be saved and the Royal Family relieved of many tedious duties. The example of the Scandinavian countries shows that a monarchy may be simple, and not too closely connected with the aristocracy, without losing any of its dignity or constitutional convenience. At present, when crises arise, all the private influence of friends, which must affect the King as it does any man, will be on the side of wealth and privilege. The privileged classes might even use the King's position as Head of the State as a reason for defying Parliament. In 1914, over the Ulster crisis, certain Army Officers argued that their oath was to the King, not the Government, and that they need not therefore support a Government whose policy they disliked. After what has been said about the King and the Constitution, it will be clear that this argument was grossly unconstitutional. The

danger of monarchy is that it may provide the enemies of government by the people with a rallying ground.

Further, since the monarchy symbolises the Sovereign State, it can be used to arouse hatred against foreigners. A feeling of personal loyalty induces many citizens to refuse to entertain any criticism of the King: in times of international crisis, the words King and Country are regarded as interchangeable and the loyal citizens are led to believe that the Government of their country is above criticism. A people in this frame of mind can all too easily be swept into war, whatever the rights of the dispute. The preservation of peace depends to-day on the willingness of States to sacrifice some of their Sovereignty for the sake of an international Rule of Law.<sup>1</sup> It is unfortunate that the monarchy can be used to inflame anti-foreign sentiment and hinder this development.

Yet there is very little anti-monarchy feeling in the country. The popularity which Queen Victoria won for the Crown waned a little in Edward VII's reign, but was restored and increased by George V. In the Abdication crisis, only a few voices were raised against monarchy itself. If the ordinary Englishman were told that he needs a King because, being one of the credulous masses, he would not otherwise understand the need for Government, he would rightly resent it. If it were then put to him that the monarchy, being thus unnecessary, might be abolished, he would ask what the King had done that he should be thus treated? None of the great political problems—poverty, unemployment, the preservation of peace—are obviously made harder to solve because Britain is a monarchy. The most radical politician can find many more reasonable subjects for attack—the slum landlord, the monopolist, the owner of property who does no work. Republicanism seems to offer no immediate gains; the personal appearances of the Royal Family create great pleasure; the abolition of monarchy would involve trouble in re-modelling the Constitution; so the Englishman lets things go

<sup>1</sup> See Ch. XXIII.

on as they are. If it is suggested to him that the monarchy may some day be of use to the enemies of democracy, he will reply—if at all—that he will meet that difficulty if and when it arises.

The people do not require their King to be brilliant or eloquent; they would not feel entirely easy in their minds if he were. The only qualities they ask for are a diligent application to work; a manner which is informal and friendly without being undignified; a patient endurance of the pitiless limelight poured on Royalty; an ability to go through long ceremonial with an appearance of interest; a large measure of common sense and fairness; and an irreproachable family life. The monarch who can fulfil these requirements becomes the symbol of his people and earns their love. It will be fitting to conclude this chapter with an expression of sympathy to the man whom the Constitution places in so curious and exacting a position.

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## CHAPTER IV

# THE KING'S MINISTERS

Rise of the Cabinet  
Members of the Cabinet  
Collective Responsibility  
Efficiency and Powers of the Cabinet  
Non-Cabinet Posts  
Salaries  
The Privy Council  
Reform of Government Machinery

### RISE OF THE CABINET.

"There will be a meeting of His Majesty's servants". In this way, even to-day, is a meeting of the Cabinet summoned. Just as a feudal lord of the Middle Ages required a bailiff to manage his estate, so did the King require servants to manage his Realm. The great lords could perform ceremonial duties for the King; they could fight for him; but their knowledge of reading and writing—let alone keeping accounts—was often imperfect. So the drudgery of Government passed to a group of men of lesser rank chosen by the King for their ability. Since they owed their position to his choice, he could trust in them more fully than in the nobles who claimed rights often conflicting with the Royal Power. When history records the nobility's anger against Royal favourites, it is really recording the anger of a powerful class which sees its power passing into other and more competent hands. Just so did Roman Emperors entrust Government to picked freedmen and members of the middle class rather than to a half-loyal aristocracy. By the 16th century the Wars of the Roses, and the development of artillery which could shatter the feudal castle, had weakened the aristocracy, and the growth of

trade had enriched the class which could keep accounts. Thus Queen Elizabeth governed through her Privy Council, as the group of the Crown's immediate advisers had then come to be called. She recruited it largely from the newer merchant families, not because she disliked the old nobility as such, but because she required competent and loyal servants. The Privy Council is the first effective instrument of Central Government in England. Dismissal from it would have implied loss of Royal favour, and disgrace; so it was understood that membership lasted for life. In the late 17th century, the division of the governing class into two parties, Whig and Tory, was established, and this created difficulties for the Privy Council. For if it appeared that Parliament preferred a Tory Ministry, and Tories were accordingly admitted to a Privy Council which already contained Whigs, the result was a body with constant divisions of opinion. Now a legislative body, such as Parliament, thrives on division of opinion; discussion is encouraged, and a final decision can be made by majority vote. But an Executive, such as the Privy Council was meant to be, requires unity if it is to pursue a consistent policy and make quick decisions. If there are unbridgeable differences, the discussion already held in Parliament will be repeated interminably. So it became necessary to select from the Privy Council an inner ring, probably of one party, to carry on the Government. Charles II chose now one group, now another, so that for each department of policy he could have Ministers who agreed with him; and since he met them in secret, the Privy Council as a whole could never tell who was responsible for the advice given to the King. The idea of an Inner Council thus became unpopular; it was believed to be an instrument of Royal despotism. The word "Cabinet" means originally a Council meeting in the King's private room, in secret. By the early 18th century the plan was fairly established. It was not recognised by the law, and the odour of a secret conclave still clung to it; it survived because it was necessary. Some group of men, of one mind on major matters, there must be, to do the

work the Elizabethan Privy Council had done, now that the Council itself had grown too large. In 1714 there came to the throne George I, who spoke no English; the Cabinet thereupon ceased to meet at the Palace with the Sovereign presiding, and met instead at the house of the First Lord of the Treasury. George I's lack of English was the occasion; the real cause was that power had passed from the King to the Cabinet. The first Lord thus became a kind of Chairman to the Cabinet, and the name Prime Minister was given to him. Critics quoted the example of Richelieu and Mazarin in France, First Ministers whose power had overshadowed King and people alike. But someone must preside at Cabinet meetings; on occasion there must be someone who can speak, not merely for one department of government, but for policy as a whole. Necessity grafted the Premiership as well as the Cabinet on to the Constitution. To-day the Cabinet is very rarely referred to by name in official documents. It is only in this century that the title of Prime Minister has received official recognition; the holder of it is still called "First Lord of the Treasury and Prime Minister".

The Cabinet is, then, the group of the most important Ministers. Nearly every member has a department of his own to manage; but in addition, he shares with the other members the task of determining the general lines of Government policy. The details of the Milk Marketing Scheme, for example, are a matter for the Minister of Agriculture; but the decision to make this, and other such schemes, part of Government policy is a matter for the Cabinet. It is necessary to co-ordinate policy through the Cabinet because nearly all important decisions involve the spending of money; if each Minister could decide independently what money he would spend, the national finances would be in chaos. Further, the policy of one department must affect that of its neighbours. What Armed Forces are necessary depends on what sort of Foreign Policy is to be pursued. The Minister of Labour cannot usefully consider the problem of unemployment among boys and girls unless he knows the views



of the President of the Board of Education on the kind of teaching they should have at school and the age at which they should leave. The Minister of Health cannot urge local authorities to build more houses if the Chancellor of the Exchequer is compelling them to spend less money. The purpose of the Cabinet is to fit the plans of different departments together so that they make up a consistent policy. One of the tests of a good Prime Minister and a good Government is the efficiency with which this task is performed.

#### MEMBERS OF THE CABINET.

When the Prime Minister, appointed after an election victory of his party, is forming the Cabinet, he must look round at the prominent party members. His difficulties will be chiefly personal. So-and-so would make a good Commissioner of Works; but he would like to be, say, Foreign Secretary, and will not come in for less; he is a popular man and his absence would weaken the Government. Somebody else is able and well-known; but he cannot argue without quarrelling and will be a source of trouble at Cabinet meetings. Two men would be suitable by themselves, but cannot get on together; another will not come unless his friend also is given a post. So a good Prime Minister must understand men as well as facts; and a good Cabinet Minister will be able not only to master his Department but to discuss policy reasonably with his colleagues. Cabinet Government is a severe test of ability, and every Cabinet brings surprises, as hidden talent is discovered or promising material disappoints: so from time to time Cabinet "re-shuffles" are necessary and a further demand is made on the Prime Minister's tact.

The members of the Cabinet are:—Prime Minister, Lord President of the Council, Lord Chancellor, Lord Privy Seal, Chancellor of the Exchequer; eight "Secretaries of State"—for Home Affairs, Foreign Affairs, Dominions, Colonies, Scotland, War, Air, and India: the First Lord of the Admiralty, the President of the Board of Trade, the Minister of Health, the

President of the Board of Education, the Minister of Labour, the Minister of Agriculture and Fisheries. The Minister of Transport, the First Commissioner of Works, and the Chancellor of the Duchy of Lancaster may be included in the Cabinet, and the total to-day is about twenty members. One man may hold two offices; the Secretary for the Dominions used to be Secretary for the Colonies as well; Mr. Baldwin in 1923 was Prime Minister and Chancellor of the Exchequer, and Mr. Ramsay MacDonald in 1924 was Prime Minister and Foreign Secretary.

Several of the Cabinet Ministers' titles explain themselves. The Lord President, the Lord Privy Seal and the Chancellor of the Duchy of Lancaster have very little to do as such—the titles are historic survivals. Their Cabinet work is restricted to giving general advice on policy. In the Labour Government of 1929–1931 Mr. J. H. Thomas, as Lord Privy Seal, was given the special task of trying to solve unemployment, with Sir Oswald Mosley, Chancellor of the Duchy, though not in the Cabinet, to help him. Occasionally there is in the Cabinet a Minister without Portfolio—i.e., without a special Department—to act as a general adviser; Lord Eustace Percy recently held such a post.

#### COLLECTIVE RESPONSIBILITY.

Meetings of the Cabinet are held regularly and frequently while Parliament is sitting, and special meetings may be summoned at any time by the Prime Minister. They are private, and only since 1916 have regular Minutes been kept. These record the decisions taken; they are not published, and it would be a breach of the Official Secrets Act for a Minister to divulge what was said at a Meeting. In 1931, after the crisis which broke up the Labour Government, there was some dispute as to what had been said at certain Cabinet Meetings; in the absence of records, the House of Commons had to make what it could of conflicting accounts. But though discussion is private, decisions are made plain in the actions of the Government. For these decisions all members of the Cabinet are responsible. This is

the "doctrine of collective responsibility"; it exists for the same reason as the Cabinet itself—that the policies of Departments affect one another. A First Lord of the Admiralty who pointed with pride to the size of the Navy could not fairly deny his responsibility for the taxes imposed by the Chancellor of the Exchequer. To preserve the idea of unity, the Cabinet generally refrains from settling disputed questions by a vote; it is the business of the Prime Minister, after hearing the discussion, to "take the sense of the meeting" and declare the Government's policy accordingly. A Cabinet Minister who openly opposes Government policy will be expected either to withdraw what he has said or to resign. Opponents of a Government are always on the look-out for statements by unwary Ministers which suggest that the Cabinet is not united. In 1932 the "Samuel Liberals" in the Government disagreed with the tariff policy of their colleagues. For a time an "agreement to differ" was observed—an exception to collective responsibility, allowing the Samuelites to express their disagreement on this one point. Before long, however, they withdrew from the Government; and though it was in name a Coalition of several parties, in fact it was overwhelmingly Conservative.

#### EFFICIENCY AND POWERS OF THE CABINET.

The Cabinet has been described as the link between Executive and Legislature. The custom, though not the law of the Constitution, requires that all its members should sit in either the Lords or Commons. Occasionally a Cabinet Minister will not be in Parliament, but when this happens, he will be put up to fight the first by-election at which he has a chance of victory. Mr. Ramsay MacDonald continued in the Cabinet after his defeat at the 1935 Election, but returned to Parliament in 1936. Sir Henry Slessor became Solicitor-General in the first Labour Government before he had ever sat in Parliament. The Chancellor of the Exchequer and the Home Secretary are always in the Commons, and it seems probable that in future this will be

true of the Prime Minister as well. The appointment of a Peer—Lord Halifax—as Foreign Secretary in 1938 provoked criticism in the Commons. Since the Commons represent the people, they desire close contact with the Ministers whose work affects the pockets and liberties of the people. The Lord Chancellor is always, and the Lord President frequently in the Lords. There is a rule that not more than six of the Secretaries of State shall be in the same House. It is to Parliament, and particularly the Commons, that Ministers are responsible, and they are liable to be questioned on policy, though they need not answer. On the other hand, the Cabinet frames the time-table of Parliament, and consequently has considerable power over it.

How far is the Cabinet, in its present form, suited to its task? A body of twenty members is somewhat large for making general decisions, and proposals for reform often include the suggestion that the Cabinet should in future consist of only eight or ten Ministers. These might represent Finance, Home Affairs, Law, Defence, Economic Policy, Social Services, Imperial Affairs and Foreign Affairs. The present number has certainly not been chosen because it was suitable; it has grown from about a dozen as the work of Government expanded. Probably Government activity will grow more in the future and the expansion of the Cabinet will make some re-organisation necessary. A smaller body could act with greater efficiency as was demonstrated during the War, when a special War Cabinet took charge. None of the proposed eight or ten members would be overloaded with the details of his Department, for each would have Ministers subordinate to him. The distinction between administering a Department and framing general policy would become sharper, and the latter task would be carried out by men who would have time to make it their special work. Some of the offices have been shown to be unnecessary, and a change in the nature of the Cabinet would give an opportunity for abolishing them. At the same time the work of the Ministers excluded from the reformed Cabinet would come under review and, in some instances, could

with advantage be differently allocated among them. Opponents of this proposal urge that the reformed Cabinet would be liable to reach decisions without taking into account the difficulties of working them out in detail, and that the concentration of power in a few hands may encourage dictatorial methods of Government. The reader can profitably reserve his judgment until the various Departments have been examined. For the question is not simply, shall there be ten or twenty Cabinet Ministers? The smaller number would probably involve the plan of one Minister of Defence, with the Army, Navy and Air Force subordinate to him; an overhauling of the administration of Justice; and a greater degree of "economic planning" under the control of a Minister for Economic Development. Cabinet reform on these lines is most likely to be supported by those who hope to see increased Government activity in, say, economic or military matters; for then the Cabinet must either be reformed or grow unworkably large. Those who believe that economic matters are best left to Private Enterprise will be less impressed by the need for change. This illustrates a general truth about politics—that problems of machinery of Government cannot be decided "on their merits"; they must be decided with one eye on the economic needs of the time. No one can compare a lawn-mower and a sewing-machine "on their merits"—one must first decide whether one wants to cut the grass or make a dress.

Unofficial adaptations of the Constitution usually precede any avowed reform, and the Cabinet has already devised two methods of dealing with the increasing pressure of business. The first is its Secretariat, which came into existence with the 1916 decision to keep minutes. A large staff looks after the Cabinet's documents, prepares its business and collects information. The Cabinet has thus lost some of the atmosphere of an informal meeting and become more like a business committee. Secondly, it is a regular practice to appoint Cabinet Committees consisting of a few Ministers. There is a permanent Committee on financial matters, and others may be set up to deal with problems on

which special information must be collected before the Cabinet will be able to make decisions. The Committees inquire into facts and report on them, but the rule that policy must be settled by the whole Cabinet still remains. If a list were made of the Ministers who most frequently do this work, there would appear an unofficial Inner Circle not unlike the proposed smaller Cabinet.

The Cabinet is sometimes criticised because it is chosen by one man. Some time ago Lord Rothermere suggested that each party leader ought to say, at election time, whom he will choose for his Cabinet if the party is victorious. This would give the Press time to hunt up the past speeches of some of the proposed Ministers and run a personal campaign against them. There are few men in public life who have not said some foolish things—except those who have refrained from saying anything worthy of note. Another view, put forward by the rank and file members of political parties is that the Cabinet should be elected by the M.P.s of the victorious party. This would ensure that every shade of opinion in the party was represented; the Prime Minister would not be able to stock the Cabinet overfull with his personal friends, or with those who could always be relied on to agree with him. But if a party think that their leader will act like this, they had better choose another. A Cabinet must act as a team, and must therefore be chosen by someone who can see what the whole will be like. No doubt this places great responsibility on the Premier. He personifies the Government of the day, as the King personifies the State. But he will only keep his power to choose as long as he uses it prudently. If he offends one section of his party too much, they may break away and perhaps vote against his Government in Parliament. If a Minister becomes unpopular with the people, it will be wise to shift him to another post, or out of the Cabinet. Sir John Simon was not a popular Foreign Secretary; Mr. Baldwin reshuffled his Cabinet some months before the 1935 Election and Sir Samuel Hoare took Sir John's place. Later an extraordinary outburst of popular

feeling about Abyssinia caused the Foreign Secretaryship to pass on to Mr. Eden. So, spasmodically, the country may affect the choice of Cabinet Ministers.

When people speak of "the Government" they usually mean the Cabinet. No important action of Government is taken, except on its decision; no law is passed of which it disapproves, and the majority of laws are its creation. Do the people, then, at elections, hand over their destinies to a group of twenty men for the next four or five years? It looks very like it. "Hold your processions and demonstrations," said Lord Birkenhead contemptuously to the Opposition in 1927, "we shall put this Bill (the Trade Disputes and Trade Unions Bill) through". Lord Birkenhead could speak thus because the Conservative M.P.s were solidly behind the Government, and the public outside were not overwhelmingly hostile. If either of these conditions had been changed, the Government's policy would have changed also. The first Unemployment Assistance Regulations of the present Government were swept away by the people's hostility. The Cabinet is entrusted with great power, but it is not a dictatorship; still less is the Prime Minister, faced with the job of holding the Cabinet together, a dictator.

#### NON-CABINET POSTS.

Outside the Cabinet is the rest of the Ministry; here are to be found the Minister of Pensions, the Postmaster-General, the Law Officers—Attorney-General and Solicitor-General, and for Scotland a Lord Advocate and Solicitor-General; some members of the Royal Household and a number of Under-Secretaries, Parliamentary Secretaries and Financial Secretaries. Each of the Secretaries of State has an Under-Secretary, and the other Ministers have similar subordinates. Frequently, where the Secretary is in the Commons, the Under-Secretary will be in the Lords and *vice versa*, so that the Government may have a spokesman for each Department in both Houses. Two types of men occupy these positions. First, the young men who are

learning the ropes and hope in time to enter the Cabinet. Next, an older group who for one reason or another have not been found suitable for Cabinet rank, but whose diligence in one Department, or loyalty to their party, give them a claim to some post. The Ministry is simply a list of all the office-holders; it does not act together in the manner of the Cabinet. Ministers outside the Cabinet are expected to agree, in their public speeches, with the whole of the Government's policy; but an occasional disagreement does not cause much stir. Mr. Baldwin once created some amusement by remarking about a middle-aged non-Cabinet Minister in his Government, who had made a speech that did not represent the Government view, that "he would know better when he had reached years of discretion". When in 1938 a newly appointed Under-Secretary expressed opinions on a grave matter of foreign policy on which the Cabinet had not pronounced, there was much criticism and he had to apologise in the Commons for his "indiscretion".

#### SALARIES.

Ministers are paid for their work, in addition to their salaries as M.P.s. An Act passed in 1937 fixed the salaries of the Prime Minister and the Lord Chancellor at £10,000 a year, and of the remaining Cabinet Ministers at £5,000. It also introduced a new idea by providing £2,000 for the Leader of the Opposition. Total expenditure on this head was increased by about £40,000, which called forth some criticism. It is clearly right to pay Ministers something, unless the country is to be governed solely by those who have private means. How much they ought to be paid must depend on the expenses of their office and the general level of incomes outside politics. If an arrangement of the world is permitted which allows one man to get £20,000 a year for the mere ownership of property, and enables successful lawyers and industrialists to draw five-figure incomes, it is hard to object to £5,000 or even £10,000 a year for Cabinet Ministers. £5,000 a year is thought necessary to secure the right type of man for a



High Court Judge, and £3,500 for the Head of the Civil Service. It may be argued that human society would be improved if very large incomes—and very small ones—were abolished; but there is little to be said for admitting the general principle of inequality and then making special exceptions to it to the disadvantage of public servants. Adequate salaries will deliver them—as was pointed out in the debates on the 1937 Act—not only from the temptation of bribery but from the more subtle temptation to add to their incomes by writing newspaper articles which do not always add to the dignity of the Government. So their salaries are supposed to be equal to what they could get in other walks of life. The Lord Chancellor's £10,000 reflects the opportunities of famous lawyers in private practice. The Law Officers receive fees in addition to their salaries—i.e., they are paid, in part, on a piecework basis. This greatly increases their income, and it is sometimes suggested that the hope of getting these prizes accounts for the large proportion of lawyers in politics.

If the 1937 Act had fixed the standard Cabinet salary at £3,000 instead of £5,000, it would probably have been more popular and done little harm to the efficiency of Government. A Minister may reasonably be expected to take somewhat less than he could get in private life; for by so doing he encourages the belief that men enter politics not only for what they can get, but because their hearts are in the work and they want to serve the people. If this belief fades, there will arise a contempt for democratic Government as a whole. What will be the feelings of an unemployed man, keeping a family on 30s. a week, when he reads that the Government, which has so fixed his income, has decreed £40,000 more for itself? A large part of Hitler's propaganda was an attack on politicians who were out for their salaries. Hitler's own party and Government do not publish detailed accounts, and so escape this criticism. Some Ministers have, beside salaries, "official residences". That of the Prime Minister, at 10, Downing Street, is well-known; he has also the

use of "Chequers", the country house which was given to the nation for this purpose by Lord Lee of Fareham in 1917.

#### THE PRIVY COUNCIL.

Thus has the Cabinet developed from the Privy Council; but the latter was too old and distinguished a body to vanish from the Constitution. Though no longer the real Executive, it is still important. Some of the Royal Family, the Archbishops of Canterbury and York, the Speaker of the House of Commons, various Judges, Governors-General and Ambassadors belong to it. A Privy Councillorship carries with it the title "Right Honourable", and is sometimes conferred, like other Honours, on prominent men not in politics. Since membership is for life the Council usually contains several ex-Cabinet Ministers, now in Opposition, as well as the Government of the day. So all Cabinet Ministers are Privy Councillors, but all Privy Councillors are not Cabinet Ministers. So large and mixed a body cannot govern, and full meetings are only held on ceremonial occasions, for example, when a new King accedes to the Throne. When the Council acts as part of the Government, only those members who support the Government of the day will be summoned, and three or four of them will be sufficient. Acts of Parliament frequently give His Majesty in Council power to make Orders and Proclamations. The Government of India Act, 1935, has a clause which runs, "The remainder of this Act shall . . . come into force on such date as His Majesty in Council may appoint". In the crisis of 1931 the number of Orders in Council which His Majesty was thus given power to make increased considerably, and attacks were made on the method of "Government by Order in Council". Such orders are only effective when there is an Act of Parliament to say so. An Act passed in Henry VIII's reign went so far as to say that all Proclamations made by His Majesty in Council should have the force of law: thus Parliament handed over its Sovereignty, in part, to the Council, but the Act was repealed in the next reign.

There are two kinds of Executive work. One is the decision on matters of high policy—what are called “political” matters in the sense that political parties disagree about them; the other is the putting into effect of these decisions. The former kind of work belongs to the Cabinet; the latter to the Privy Council and the Civil Service. The Council generally does those pieces of work which have old associations clinging to them, or have a ceremonial connection with the King—as, for instance, granting the Charter which turns an Urban District into a Borough. The likeness between the Council and the Civil Service can be traced further; the Council will sometimes review, and recommend a rearrangement of, the work of different Departments; new Departments sometimes start their lives as Committees of the Privy Council—such is still, legally, the position of the Board of Trade and the Board of Education.<sup>1</sup>

Since the King is the Fountain of Justice, the Privy Council—his Council—has always possessed some of the powers of a Court of Justice. In Henry VII’s reign these powers were given to a Committee of the Council, known as the Court of Star Chamber. Because of its close connection with the King it was known as a “Prerogative Court”, and suffered the unpopularity that fell on all instruments of Royal Power. So, in the 17th century, an attempt was made to limit the judicial powers of the Council to the King’s Dominions beyond Great Britain. The attempt was not wholly successful, and when the Overseas Dominions grew, the Privy Council found itself, like the Crown, one of the links of Empire. To-day the judicial work is done by the Judicial Committee of the Council, which only the lawyer Councillors attend.

#### REFORM OF GOVERNMENT MACHINERY.

So the Privy Council as a whole is only an ornament. Its real

<sup>1</sup> There is also a Committee for Scientific Research, which has not yet grown into a Ministry.

importance lies in the fact that it is an institution from which many convenient pieces of Government machinery can be drawn. It executes many decisions of the Cabinet; it supplements and suggests reforms in, the Civil Service; it completes the structure of the Courts of Law. The reader will probably, by now, have decided that the Executive machinery has been built up in the most casual fashion. There is scarcely an important part of it that was not originally intended for some purpose different from the one it now fulfils. Half the names do not mean what they say, or mean nothing at all. Every alteration has been made to solve a particular and urgent problem; no one has overhauled the whole in the interests of efficiency. Such a way of making a Government would have led to disaster long ago if there had not been the Privy Council out of which new parts for the machine could be produced like rabbits out of an inexhaustible hat. The metaphor is appropriate; for the British Constitution is always, like a conjuror, performing the apparently impossible. This ingenuity cannot postpone for ever the labour of re-planning the Government. The number of "particular and urgent problems" increases rapidly and many new bodies have to be created. Some of them, such as the Economic Advisory Council, have only advisory powers; others, such as the B.B.C., make decisions, which, if not of major importance, at any rate affect many people and excite a good deal of interest. But, when the whole structure has become so complicated, who can say how these bodies are really controlled? If the B.B.C. talks on public affairs are too Right, or too Left, for my liking, what useful action can I take about it? Sooner or later a crisis will arise; an arbitrary act by an official may provoke it, or a quarrel between two Departments. Then the research of private people and the Report of the Haldane Committee on the machinery of Government may begin to bear fruit.

What general rules ought to be observed, when a drastic reform of the Executive is made? From the description which has been given, the following conclusions can be drawn. First, that the

supremacy of the Cabinet, so long as it has the confidence of Parliament, should remain. No Government is good which does not follow a consistent plan; no consistent plan can be made except by a body which is sure that no one else has the power to unmake its work. Second, that since the Cabinet's authority is justified on the ground that co-ordination is necessary, Cabinet Ministers must be able to give time to this work; for this reason the plan for a smaller Cabinet has been mentioned with approval. Third, that meaningless ceremonial, empty titles and useless traditions should be removed as rapidly as possible. The frequent and necessary creation of new Departments will lead to confusion and waste, unless out of date Departments are abolished. Further, the mere belief that Government is old-fashioned is dangerous to liberty because it brings Government by discussion into contempt. To adapt a phrase used about the administration of justice, it is not enough that the Government should be efficient—it must manifestly appear to be efficient; democratic Government must be Government that people can understand. The plain man will enjoy ceremonial in what he considers to be its proper place—e.g., at the Coronation—but no one is thrilled by the survival of the office of Lord Privy Seal; no dignity is added to Government by trying to keep up the official pretence that the Cabinet does not exist. Fourth, in the newest Government activities, an effort must be made to determine more precisely what decisions should be taken by party politicians and what by Civil Servants.

Keeping these rules, however, will not by itself cause the Cabinet to govern better or make the people's will more effective. It has been noticed how the Privy Council rose from being a group of the King's clerks to become the chief organ of Government. This did not happen because such a group could be proved, on paper, to be the best method of Government, but because the men in the group knew their business. Ministers who do not understand, for example, the relation between cause and effect in economic policy, will not rule any better because the

Cabinet has been reformed. Scientific study of the needs of the people is the real basis for efficient Government.

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## CHAPTER V

# THE CIVIL SERVICE

Laymen and Experts  
A Non-Partisan Service  
Civil Service Recruitment  
Conditions of Work  
Influence of the Civil Service  
Government by Experts  
Expense  
Conclusion

### LAYMEN AND EXPERTS.

The last chapter ended with a plea that politicians should recognise the technical difficulties of their task and train themselves accordingly. The reader may object that there are already trained experts, in the Civil Service. Is not the politician meant to represent the intelligent layman? He has not the detailed knowledge of the expert; but neither does he run the risk, as experts in one Department do, of becoming absorbed in that Department and losing his sense of proportion. For some time it has been the theory of British Government, that each Department should have a lay chief with expert subordinates—the expert advises, but the layman has the last word. There are parallels to this in other spheres of public life: in criminal trials, lawyers will state a case, the judge will explain the questions at issue, but twelve laymen will decide the verdict. This system has been satirised, as in W. S. Gilbert's picture of the First Lord of the Admiralty who had never been to sea, and in the story of the Chancellor of the Exchequer being instructed in the mysteries of decimal points. On the other side, the expert, acting always according to rule, has also been satirised, and some of the most

striking improvements in public Departments have come from people new to the work, approaching it with a fresh mind. Florence Nightingale instructed the War Office in the obvious principle that when hospital stores are at hand, and needed, they should be used—there is no need to wait till next month for permission to open them. Common sense, it is argued, acts as a corrective to routine.

There is a real distinction between the work of a political chief and that of a Civil Servant. The former decides what the objects of Government policy are; the latter advises how they can be attained. The former must be ready to move from one Department to another, as the death or retirement of members of his party create vacancies; the latter is usually engaged on one type of work throughout. The former must leave his work when his party is defeated; the latter is a permanent official.<sup>1</sup> This distinction, however, must not be over-emphasised. No one can say *what* the Government ought to do unless he has some idea *how* it can be done. Ministers, therefore, do make an attempt to understand the technicalities of their Departments: among the leading figures of any party there may be one who has devoted special attention to education, another to foreign affairs, and so on—if their party is victorious it is clear which Departments they will control. In every subject there are certain fundamental rules which anyone of good intelligence can grasp, without making the subject his life-work. For example, a Foreign Secretary may reasonably consult his Civil Servants to find out what are the historical and legal claims of Britain and Persia to the Bahrein Islands; but he ought to have made up his own mind as to what is involved in membership of the League of Nations. A Chancellor of the Exchequer need not be a man whose life has been spent in the City; but he should know what debt conversion means, what conditions are favourable to it, and what results are to be expected if the Government borrows large sums of money. The

<sup>1</sup> During one decade in this century, the Post Office enjoyed as many as ten different Postmasters General.



word "layman" should not be another name for ignoramus; similarly, "expert" should not mean someone who cannot understand anything except his own Department. A little more than a hundred years ago Departments could be found which were run by hidebound officials under the nominal control of a country gentleman who had taken up the work of Government because it was the custom of his family. This sort of lay and expert alliance is useless; if the partnership is to be fruitful, layman and expert must always try to approach one another. The Civil Servant must know, or know where to find, all the relevant facts; his chief must be able to understand the facts when they are put before him.

#### A NON-PARTISAN SERVICE.

Only a limited number of Civil Servants come into such close contact with Ministers. There remains a mass of routine work—answering letters, sending out forms, tabulating replies, copying documents. Civil Servants from the highest to the lowest grade thus perform work which must be done for whatever party is in power. If the people are to be sure that the Government they choose will carry out their wishes, then the Civil Service must be efficient and must give equally good service to all parties. Regulations are made to protect Civil Servants from the least suspicion of party bias; they are forbidden to stand at any election for a public body or to take any open part in political argument. For the higher grades of the Civil Service this seems reasonable. Relations between a Chancellor of the Exchequer and a high Treasury official might be difficult if the latter were just about to oppose his chief at an election. There is less reason, however, in restricting the activities of clerks and postmen, and the regulations are sometimes quietly ignored. In return for this restriction on his liberty, the Civil Servant gets security in his post. Legally he is a servant of the Crown and can be dismissed at a moment's notice; in practice his job is safer than any other. This contradiction has two useful results. The practical security

attracts competent men to the State's service; it enables them to do their work without trying to curry favour with a particular Minister; it puts them above corruption. The legal liability to dismissal can be used as an emergency weapon against a Civil Servant who flagrantly neglected his duty or abused his trust: very rarely indeed has it been used.

A non-party permanent Civil Service, made up of people chosen for their ability, is thought of to-day as a necessity for good Government. This has not always been so. In the 18th century a large proportion of Civil Service posts were filled, by Ministers, with their relatives, dependants and friends. Public work was often placed in incompetent hands; and the Government of the day could always rely on its employees to vote for it at elections. A change of Government might be followed by a complete re-staffing of the Civil Service. Sir George Trevelyan describes a specially flagrant instance of this, after the Parliamentary victory of the Government which concluded the peace in 1762, ending the Seven Years' War. "The fight was over and the butchery began. Everyone who belonged to the beaten party was sacrificed without mercy, with all his kindred and dependants; and those public officers who were unlucky enough to have no political connections fared as ill as the civil population of a district which is the seat of war between contending armies. Clerks, messengers, excisemen, coastguardsmen and pensioners were ruined by shoals because they had no vote for a Member of Parliament, or because they had supported a Member who opposed the Peace".

In 1829 Sir Robert Peel, as Home Secretary, faced the serious problem of the policing of London. He created a new body of public servants, the Metropolitan Police. The population was growing; there was much misery and crime; if the new force did not do its work the capital would be in chaos. "We should deserve to be crucified" wrote Sir Robert to a friend "if we made a job of this". So arose an example of a public service recruited for ability and not by jobbery. As the work of Govern-

ment and the need for efficiency grew, the new idea spread. An examination system was introduced for applicants for Civil Service posts, and by 1870 open competition was established. Two years later voting by secret ballot replaced open voting at elections, and Civil Servants were able to use their votes without offending one party or another. The Industrial Revolution which, throughout the 19th century changed the face of Britain, and the lives of her people, is well known: less obvious, but scarcely less important was the revolution in administration, which gave the country, instead of a collection of placemen, a trained and uncorrupt Service.

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#### CIVIL SERVICE RECRUITMENT.

To-day there are about 50,000 Civil Servants in the offices of the Government in the capital; another 50,000 are employed by the Central Government but stationed all over the country. These figures exclude the 200,000 in the Post Office, which will be considered later. First comes the Administrative class, which includes the Permanent Secretaries, placed at the head of each Department, and all those whose work involves the making of important decisions, and giving advice to Ministers. The kind of examination set for entry into this class is suitable for University graduates; the Civil Service thus becomes, together with the Law, some branches of journalism, and University lecturing, one of the recognised careers for the abler University students. Next is the Executive class, containing those who do such subordinate work as requires a good education. It is filled partly by promotion from the lower grade, but chiefly by young people leaving Secondary schools at about eighteen years of age, but not going on to a University. The Secondary schools also provide many recruits for the third, or Clerical grade. Finally there are writing assistants and typists; all of these are women, and the posts are such as can be obtained by girls from elementary schools who supplement their education with work at evening classes. The most striking fact about this arrangement is the

way in which it fits the educational system of the country. From the products of elementary school, secondary school and University it picks those whom it thinks suitable, and for the most part they remain in separate grades throughout their work. The British Civil Servant enters his work young—no one can enter after the age of 24—and the majority continue in it all their lives.

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The examinations are not intended to test any special knowledge of the public services. The age of most of the candidates makes this unsuitable; and although a University student aiming at the Administrative grade might acquaint himself with the facts, a knowledge of public administration in 1938 is not by itself the best qualification for a life of administrative work for the next forty years. Enough of his time will be consumed in mastering details when he is in his post; the time before that is better spent in getting a wider knowledge. The examinations seek, therefore, to discover intelligence, adaptability, and, particularly for the Administrative grade, personality. The undergraduate will find that any recognised University course will serve as a preparation for the Civil Service Examinations. The written examination is supplemented by a personal interview. Though this is useful for discovering the candidate's fitness, it opens a door to a kind of unconscious favouritism. However impartial the examiners strive to be, that candidate has an advantage whose speech and manner are pleasing to them personally, who has been to a school whose name they know, who, in short, shares their social culture. This is particularly true of the Foreign Office, where much stress is laid on personality. Certainly the result of the system is that the large majority of administrative posts are held by men from the old Public Schools and the older Universities. They are extremely loyal public servants; but, inevitably, they will find it easier to co-operate with Ministers of their own class than with those who come from poorer homes or have had less expensive schooling. Reform of the examination system would not remove this defect.

The Civil Service must have highly educated men; if the opportunities for education are limited too much to a single class, the fault is in the educational system itself. It may also be doubted whether the dead languages are really as great a help to understanding the world as history, economics, or the natural sciences. The Civil Service Examinations assume that they are; but this is chiefly because the educational system takes the same view. One recent criticism of the Civil Service is that in the training of administrators for the Colonies it underrates the need for special knowledge. If a man is to administer justice among Africans, there is much, no doubt, that he can learn only from experience; but there is also much stored-up knowledge of native customs, the fruit of past experience, which can usefully be studied.

#### CONDITIONS OF WORK.

The whole task of examination and appointment is, subject to Acts of Parliament, in the hands of the Civil Service Commission which was created by Order in Council in 1855. It is the Treasury, however, which acts as the "employer" and makes regulations for the general discipline of the Service. The Civil Servants are allowed to form associations—chief of which is the Civil Service Clerical Association—to negotiate with the Treasury about wages and conditions. The C.S.C.A. used to be affiliated to the Trades Union Congress, but the Trade Disputes Act of 1927 forbade such outside affiliations in future; this makes yet another restriction on the political liberty of Civil Servants. The salaries of many Civil Servants used to vary with the movements of the cost of living. The plan led to many disputes, particularly during the period of falling prices after 1929, and has now been abandoned. With regard to hours, holidays, and general conditions, the Civil Servant is very favourably placed. There is, in the Whitley Councils established since the War, a permanent machinery for negotiation about conditions of service. If the Treasury and its employees cannot agree, they

may send the points in dispute to be decided by three arbitrators: two of these represent the parties to the dispute, and the third represents industry; his presence is a reminder of the fact that all Government expenditure comes in the end out of the wealth that industry produces.

#### INFLUENCE OF THE CIVIL SERVICE.

So the Civil Service is a trained body of experts on whose help every Government must rely. As long as they do the work required of them they cannot be dismissed, they cannot be publicly criticised, they will not be blamed if the results of their work are not to the country's liking. All these misfortunes are the lot of politicians, not Civil Servants. Being in so strong a position they cannot help influencing Government policy; and it is often said that the Civil Servants really rule the country. Two facts strengthen this belief in the mind of the ordinary citizen. When the Government takes any action that affects him personally, it is usually a Civil Servant with whom he comes in contact; when he argues about his Income Tax, or his right to a Pension, he will argue with a Civil Servant. Further, the voter notices that, despite the fury with which parties attack one another at elections, no tremendous changes occur in men's lives, as far as he can remember. What truth, then, is there in the charge that the British form of Government is "bureaucracy"—rule by officials?

Civil Servants may discourage a Minister who is trying to start a new policy by drawing his attention to the difficulties. A President of the Board of Education, for example, may wish to raise the school-leaving age to 15. It is pointed out to him that this will mean more schools and more teachers; that the need will be particularly great in districts where the population is growing rapidly; that different arrangements will be needed in the districts where it is shrinking; that certain industries will be specially inconvenienced by the withdrawal of the 14 year old workers. Again, many parents will suffer loss if their children

cannot begin earning at 14; does the Government propose to grant maintenance allowances? Will these be granted to all parents, or only those who need them? Who will judge need? Some schools are partly controlled by religious bodies; will they be able to afford the extra expense? Is the Government going to give them any help? The reader will object that the Minister ought to have thought of all this for himself, before he decided on his policy. No doubt; no one but a fool would think of keeping more children at school without considering the need for teachers. But the difficult question is one of quantity; how much extra expense will be caused? how great will be the inconveniences? how far do they make it wise to alter the Minister's original plan? how long will it take to make the necessary preparations before the new policy can come into force? These questions can only be answered when a mass of facts has been collected. If the Minister is to be the real chief he must judge which statements are so important that he ought to verify them for himself, and make the facts part of his own knowledge, not merely part of what he has been told. He cannot give a personal interview to every employer lamenting the loss of cheap labour; he cannot himself answer or even read every letter that religious and other associations send him. He must judge whom it is worth while interviewing, and at what points his personal intervention is most effective. If he cannot do this, the Civil Service will rule; not because they are eager for power, but because somebody must make decisions, and, if the Minister cannot, only they are left. The Minister has to defend his policy in Parliament and in the country, and if he has not grasped the essentials for himself, this fact will soon appear under the searchlight of debate. "These answers," said Mr. Lloyd George, in a debate on an important Bill, "are not intelligible; and it is not the fault of the Minister, for he read, very clearly, the statement that had been given to him".

If this were all that bureaucracy meant, there could be little objection. Ministers who wish to make changes without realising

the difficulties, only cause confusion, and the sooner they are discouraged the better. But there are two reasons for supposing that Civil Servants are likely to exaggerate the difficulties of anything new. First, their work requires them to cultivate habits and routine: if documents are not filed on a definite plan, no one will know where to find them. The Civil Servant is not alone in this: an efficient student keeps his books and papers tidy; an efficient business staff keeps regular hours. But in the Civil Service, an exceptionally large proportion of the work can be reduced to rule, and people who work thus are in danger of becoming the slaves of habit; they begin to think that the only good work is the work one is accustomed to doing. Under one Government, the Civil Service may be encouraged to seek for every possible way of cutting down expenditure: a new Government arrives, convinced that some of the public services have been starved and determined to expand them. No doubt it is good to avoid waste; but it is also good to know how to spend wisely, and a Civil Servant who has for years been devoted to the former cannot easily turn his energies to the latter. When the late Mr. Arthur Henderson became Foreign Secretary he is said to have supplied every important Civil Servant in his Department with a copy of his party's policy. Not every Minister is as resolved upon—or even as well acquainted with—his policy; nor is it always easy for a Minister to secure loyal support for a change, unless he is patient and tactful.

Secondly, the Civil Service, like all professions, breeds among its members a spirit of professional pride. This is natural and right; without such a spirit there would not be so good a Service. But it may encourage the belief that the Civil Servant always knows best, and incline him to be contemptuous of the Minister who comes for the first time to the job to which the Civil Servant has given his life. Further, each Department may develop traditions of its own, and this will hamper co-operation between the Departments, and check the development of new pieces of Government organisation.



These two evils—rigidity of mind and professional jealousy—are what is meant by “red tape”. It is not a disease found only in the Civil Service. The professional pride of doctors protects the public from quackery; but it has also been responsible for the obstinate opposition to manipulative surgery. Business men write “your esteemed favour” when they mean “your letter” for no better reason than that it has been done in the past. To say that Civil Servants are liable to be entangled in red tape is to say no more than that they are human beings. The way in which the service is recruited probably aggravates the danger, since every member is vowed to his work—and usually to one Department—for life.

If the Civil Service were determined to obstruct the Government because they disliked the policy, the obstruction would be very formidable. The German Republic and the Spanish Republic both suffered a great deal from the hostility of the higher Civil Servants. Such an attitude is, of course, disloyalty, and, in effect, a form of rebellion; the only remedy would be for the Government to staff its Services afresh with people who would recognise the claim that any lawful Government has over them.

The power of the Civil Service does not show itself only in the negative form of checking or modifying new proposals. The history of the Factory Acts provides an example of positive activity. The Act of 1833 is a landmark in factory law because it provided, for the first time, inspectors appointed and paid by the Central Government. Unafraid of the disapproval of employers, they were able to enforce the law and to notice the various ways in which it could be kept in the letter but broken in the spirit. Their reports became valuable stores of information for any Government wishing to improve factory conditions. From them was learnt the necessity of letting the workpeople know what their legal rights were; how regulations for the health of young workers could be made effective; which safety precautions were of chief importance. Just as the Cabinet prepares Bills for Parliament, so the Civil Service may prepare Bills for

the Cabinet. The fact that the law is not codified—i.e., arranged in sections according to subject—increases this power. For example, the main plan of post-war Unemployment Insurance was set out in the 1920 Act. As parts of this proved unsatisfactory in practice, or were made so by changing circumstances, a string of amending Acts followed, till the whole subject was tangled, and very few people could give a clear account of it. The real experts were the unemployed themselves, and the staff of the Ministry of Labour. When, therefore, the 1934 and 1935 Acts were being prepared to clear up the position, it was very largely Civil Servants who had to frame them. The same process can be traced in every department of law-making.

But, once again, where is the objection? Here is a defect in the Constitution—that there is no one charged with the task of reviewing the law and trying to keep it both easy to understand and in line with public opinion. The Civil Servants obligingly remedy this defect. But there are two questions to be asked about any law: first, is it workable from the point of view of those who administer it? second, is it just for those whose lives are ruled by it? Now the Civil Servant is concerned with the first question; he assumes, quite properly, that it is the politician's business to know public opinion. If the politician neglects this duty laws will be made which suit those who work them rather than those who obey them; this is absurd, because the only reason for obeying laws is to get some good from them. The appearance of something very like *droit administratif* in the British Constitution has already been noticed. Not content, apparently, with influencing the actions of Ministers and the making of laws, the Civil Service takes over work which should properly belong to the law courts. This illustrates again the bureaucratic habit of giving more weight to convenience than to justice. The Lord Chief Justice, in his book, *The New Despotism*, makes a vigorous attack on this development of Civil Service powers. But, to the charge of despotism, the Civil Servant can reply that the processes of law are long, costly and

uncertain. A Committee which reported on the subject in 1932 realised that if the authority of Courts over the decisions of Government Departments was to be restored, the procedure of the law would have to be simplified.

This account of the power of the Civil Service leads to one general conclusion. The bureaucracy becomes powerful in proportion to the incompetence of other parts of Government. When there are ignorant Ministers, careless Parliaments, and over-burdened law courts, the Civil Service does what it can to carry on the Government in spite of these drawbacks. There is no real evidence which justifies the picture of Civil Servants as despots, hungering for power. They are, rather, pickers up of unconsidered trifles, and they pick them up because of a professional love of tidiness. If not only trifles, but the Rule of Law and the rights of citizens are left unconsidered, the fault does not lie with the Civil Service.

#### GOVERNMENT BY EXPERTS.

Since bureaucracy is not a selfish tyranny, some are tempted to see in it the perfect form of Government—Government by experts. There are two serious objections to this view. First, that such Government is deceitful. By the imposing show of Cabinet Ministers and an elected Parliament it leads the people to think that they govern themselves, when in fact they do not. A people accustomed to being deceived gets no real understanding of politics and is the natural prey of quacks. This evil lies hidden as long as no great crises arise. But if, for example, a rapid growth of unemployment and poverty alarms the people, they will realise that their votes do not make much difference, and will hand over their liberty to whichever popular speaker has studied the art of deception most diligently. The second objection arises from the recurrent need, in human society, for change. The Civil Servant is trained to understand and work the law as it is; the changes he suggests, while useful, are not fundamental. If a man is to say what political changes are necessary

in order to prevent war, he must be able to see what vested interests make for war; and he must understand human nature so well that he can mobilise sufficient support to defeat those interests. This work lies outside the routine of administration and the man who does it enters into the strife of parties and classes. A Civil Servant may, as a citizen, have his opinion on such questions; but his work does not necessarily enable him to have a wiser opinion than anyone else.

#### EXPENSE.

Some mention must be made of the view that bureaucracy is extravagant. Civil Servants, it is argued, are not handling their own money, but the taxpayers'; therefore they have no special desire to be careful. In the days of the 18th century jobbery there was much truth in this accusation but the evil was largely removed by the 19th century reform of the Civil Service. Again, during the War there was extravagance; the trend of Government was to get things done quickly rather than cheaply, and many Civil Servants were new to the work. But the Civil Service works under Treasury control; if some Departments are tempted to swell their own importance and their expenditure with it, the professional instinct of the Treasury staff is to restrict. Bureaucracy is just as likely to suffer from meanness as from extravagance. The arrangements for getting economy in the public service are not perfect; but here again, the necessary reforms are in the procedure of Parliament rather than in the Civil Service. An ill-informed Press campaign against waste, in the years immediately after the war, has made the problem more difficult: men who might otherwise have made useful criticism of Civil Service expenditure hesitated to join an attack whose real object was to starve the social services.

#### CONCLUSION.

When everything has been said, it remains true that the Civil Service must be highly praised for its competence, honesty

and willingness to patch up any weaknesses that appear in the Government. It is liable to three defects—"red tape", a tendency to acquire powers not intended for it, and overfondness for the habits and beliefs of the better-educated part of the upper classes. The precautions that can be taken may be summarised as follows:—The educational system can be improved so that the necessary training shall be easily available for all classes. At present, on a generous estimate, not more than one-fifth of the people can pursue their education beyond the age of 14, and in the selection of that fifth, wealth is the most important factor. As citizens, voters, and members of political parties, the public can demand from politicians, and develop in themselves, a higher standard of knowledge. Florence Nightingale's defeat of the War Office was the result of her own competence; had she gone out to Scutari with nothing but a desire to help the wounded she would have been helpless; her weapons were her determination, her training, her knowledge of how to obtain the necessary equipment for her work. Finally, a review of the newer activities of Government can be made, in order to show what changes are required in the relations between Ministers, Civil Servants and Parliament, now that Government attempts to regulate industry as well as keep order, and what simplification of the law is necessary if Civil Servants are not to escape from its control.

#### BOOKS:

FINER. *The British Civil Service.*

HEWART. *The New Despotism.*

## CHAPTER VI

# THE POLITICAL ACTIVITIES OF GOVERNMENT

### Classification of Government Activity

The Treasury

The Home Office

Keeping the Peace

Social Work

(i) Factory Acts

(ii) Public Welfare

Status of the Home Office

The Scottish Office

The Foreign Office

Keeping in touch with Foreign Countries

Assisting British Subjects Abroad

Planning Foreign Policy

The Armed Forces

Navy

Army

Air Force

General Considerations

### CLASSIFICATION OF GOVERNMENT ACTIVITY.

Any Government must be able to keep order; if it does not do this it is not a Government. Further, if it exists in a world of Sovereign States, it must consider its relations with its neighbours. In connection with both these tasks it will decide to keep certain Armed Forces. To pay for these Departments it must get money. So Home Affairs, Foreign Affairs, Armed Forces and Finance may be called the necessary or **POLITICAL** activities of Government. The philosophy called *laissez-faire*, which was popular some 150 years ago, held that, if possible, Governments should attend to these things and no more. Nearly all of the community's economic life—the arrangements for the producing and sharing of wealth—would thus be left outside Government

control. By now, however, most Governments have found it wise to take some part in economic life. They still—except the U.S.S.R.—believe that the chief part in economic affairs should be played by private persons—that is, they believe in Private Enterprise, or Capitalism—but to a greater or lesser degree they regulate this enterprise. So there appears a second group of Government activities, which can be called ECONOMIC. These again may be divided into those which are meant to encourage the production of wealth and those which affect the way in which it is shared: the latter may be called SOCIAL activities. There is nothing sacred about this threefold distribution; it would not suit a primitive tribe, a Greek City State, or the U.S.S.R., but it is convenient for describing the Government of a modern Capitalist State such as Great Britain. To some extent, also, it fits the history of British Government; the political Departments have had a long life, while most of the others were recently created and show signs of this in their organisation. The distinction is not rigid; some activities are performed, partly by one Department, partly by another, for purely historical reasons; others, by their nature, are both political and economic. This is particularly true of the activity which will be examined first—that of raising money and managing expenditure. It affects all activities, since none of them can be carried on without it; and it is bound to influence the production and distribution of wealth.

#### THE TREASURY.

The work of this Department was once carried on by a Lord High Treasurer, but for more than 200 years this office has been “in commission”—i.e., its duties have been entrusted to a group of men known as Lords Commissioners. The supreme importance of money caused the First Lord to be the chief man in the Government. He has now become Prime Minister and takes no further part in Treasury work. The member of the “Commission of the Treasury” who really controls it is the

Chancellor of the Exchequer, with the Financial Secretary as his second in command. The other Lords have routine Treasury duties—some documents are not valid without their signature—but their real work is to act as Government Whips—i.e., to see that Government supporters in the House of Commons are there to vote when required. The Parliamentary Secretary to the Treasury is the Chief Government Whip, and the unpaid Assistant Whips are nominally attached to the Treasury. A Treasury Minute—i.e., a statement of one of its decisions—usually takes the form, “The Chancellor of the Exchequer recommended. . . . My Lords concur.” Also attached to the Treasury is a lawyer who drafts Bills for the Government, and another, known as the King’s Proctor, who acts for the Crown, when it is interested in Civil lawsuits.

In effect, the Commission of the Treasury is two distinct things—a Treasury proper, and what might be called a Prime Minister’s Department. Again, when the former of these is considered, the real financial work must be distinguished from the running of Government as a whole. Because it sees to the spending of money, the Treasury has become, through its Establishments Department, the employer of the Civil Service; it has the last word on appointments and salaries, and on any proposal for reorganising a Department which will mean spending money. The work which the word Treasury usually suggests is mainly performed through the Finance Department.

The first duty is to arrange for the collection of money, which is performed by four bodies under Treasury control. The Board of Inland Revenue collects “direct taxes” such as Income Tax. The Board of Customs and Excise collects “indirect taxes” i.e., taxes on articles produced in this country (Excise) or imported from abroad (Customs). These two boards collect more than nine-tenths of the total revenue. A further sum comes from the Post Office, and the fourth body is the Commissioners of Crown Lands. In the Middle Ages a very large part of the King’s income came from land, and no distinction was made



between the King's private accounts and those of the State. In 1688 this distinction appeared, when the King's expenditure was set apart in the Civil List: George III, on his accession in 1760, surrendered the Crown Lands to the State and the Civil List was accordingly increased. The growth of public expenditure, and of taxation with it, has made Crown Lands to-day only a very small proportion of the total revenue.

All the money thus collected is paid into the "Consolidated Fund" to the account of H.M. Exchequer at the Bank of England. From time to time the Treasury requires an official called the Comptroller-General to require the Bank to enable the Paymaster-General to let the various Departments have the money they need. This long-drawn-out procedure is intended to ensure that Parliament, to whom the Comptroller-General is responsible, shall have control over all money spent. The estimates which each Department makes of its probable expenditure for the next year all come under the eye of Treasury officials, and much consultation will be held between the Treasury and the Departments with the object of keeping expenditure down.

The Government spends regularly throughout the year, but its income arrives irregularly; particularly large amounts arrive from Income Tax in January, February and March, the last three months of the Financial year. To provide the Government with money before it is collected, the Treasury borrows by issuing "Treasury Bills"—i.e., promises to repay in three or six months' time. Treasury officials must therefore be acquainted with the business world; they must know when it is easiest to borrow money, and what is the lowest rate of interest the Government need offer in order to get what it requires. This is also true when the Government is borrowing larger sums, and for longer periods, as it is now doing for armaments. For these purposes the Treasury keeps in close touch with the Bank of England, from whom it also receives the profit made by issuing currency notes. Since the plans of the Treasury for taxation and borrowing affect the business world and the chances of

making money by speculation and investment, the strictest secrecy has to be, and is, observed, till plans are complete and the Chancellor can announce them in Parliament.

Industry to-day is greater and more complicated than it used to be, and the tasks it undertakes are more ambitious. Compare, for example, Bell's *Comet* of 1812 with the *Queen Mary*, or the 1825 Stockton and Darlington Railway, with the plan of electrifying the whole railway system. Consequently, unaided private enterprise is not always equal to the task; the Government assisted the building of the *Queen Mary*, and is sometimes asked to help railway electrification. A new Government activity is arising—the development of the capital resources of the nation—for which no Department exists. There are two bodies—the Development Commission, which can advise the Treasury, and the Public Works Loans Board, which, under Treasury control, lends money to local authorities; but neither of these considers as a whole the problem which has sprung up because of changes in business. Looking after the income and expenditure of the political Government is one task; studying the problems of the State as a partial director of investment is another. The latter task is likely to grow; the development of the Distressed Areas is a problem still to be solved; and a regulated programme of public works is one way of approaching the Unemployment problem. The present plan of leaving both tasks under Treasury control dates from a time when belief in *laissez-faire* was stronger than it is to-day.

#### THE HOME OFFICE.

The Home Secretary's business is to see that the peace is kept; the power to check crime and bring offenders to justice is in his hands, and he is responsible for seeing that this power is used to promote liberty and not to suppress it. To some extent, also, he is required to promote the personal happiness of citizens, so far as that depends on Government action. This seems a wide definition, and there has in fact been a tendency to load

on to the Home Office any work which did not clearly belong to another Department.

1. *Keeping the Peace.* The chief instrument for keeping the peace is the Police Force. Each county, and each of the larger towns maintains its own force, but there is no local activity over which the control of the Central Government is greater. The numbers and pay of the Police and the appointment of the Chief Constable of each local force must have the Home Secretary's approval; and the regulations of all Police Forces must conform to a pattern laid down by the Home Office. The Metropolitan Police Force, which has power over the London County Council area (except the City of London), and over Greater London, is directly under the Home Secretary's control. For this purpose there is attached to the Home Office a Metropolitan Police Commission in the charge of a Chief Commissioner. An Act passed in 1933 was intended to attract men from Universities into the higher ranks of the Metropolitan Police, and to raise the educational level of the police by the opening of the Metropolitan Police College at Hendon. It was argued that the tasks of the police are now so many that a good education, as well as commonsense and experience, is necessary; also that the police, like the Civil Service, ought to take advantage of the fact that our educational system does produce a number of highly trained people. The same criticism, however, may be made of this plan as of Civil Service recruitment: at present, a preference for men from the older Universities means a preference for a certain social class. If most of the higher Metropolitan Police ranks are recruited in this way, it will mean that they are separated in outlook both from the men they command and the public whom they are intended to serve. In no department of Government is this more dangerous than in those, like the Police Force and Armed Forces, which control the liberties of the people. Further, the Police, unlike the Armed Forces, are in constant touch with the public; they tell them to "move on"; they stop disturbances;

they are often the real arbiters between motorists, cyclists and pedestrians. These duties can only be performed well by a force which has the confidence of all sections of the public. The Police are appointed by the Home Secretary; the Home Secretary must have the confidence of Parliament; Parliament is elected by the people; all this is true and important, but it does not by itself make the people feel that the Police are well-disposed to them. The good relations which, on the whole, exist between Police and public, spring from the fact that the Police are drawn from the ordinary people.

A Prison Commission, under the Home Secretary, is responsible for the treatment of the 12,000 persons who are usually to be found at any one time in English prisons. Since no man may be deprived of his liberty except in accordance with the law, the treatment of offenders is strictly a matter for the courts to determine. The sentence of a court, however, does not go into details; the food, clothing, hours of work, opportunity for recreation and discipline of prisoners—nearly everything, in fact, which decides what prison life is like—come under the control of the Prison Commission, except for a few powers which belong to the local magistrates. While only the Judicature can impose sentences, the Royal Prerogative of Mercy enables the Home Secretary to reduce or abolish them; in the most serious cases he usually consults with the Judge who presided at the trial. The great majority of people do not go to prison, and so are not greatly concerned with prison conditions. A great responsibility therefore rests on the Prison Commission and the Home Secretary: this work is not exposed to regular criticism; occasionally some unusual event will awaken public interest.

The close connection between the Home Office and the administration of Justice is also illustrated by the fact that the Home Secretary appoints the Public Prosecutor, and certain magistrates.

2. *Social Work.* The Home Secretary's duty to look after the safety and well-being of citizens places upon him work of a

quite different character from that so far examined. It is social, rather than political, though distinguished from what are usually called "social services" because it does not require large spending. It can be grouped under two headings:—

(i). FACTORY ACTS. The 19th century added many of these to the Statute Book. They were first concerned with limiting the hours of work for women and young people, since the belief in *laissez-faire* prevented any interference with the liberty of a grown man to work as long as his employer required him. Even to-day, regulation of hours for all workers is rare. Later Acts laid down conditions of work intended to secure the health and safety of workers, and the whole system was extended from factories to smaller workplaces and to shops. The inspectors under these Acts are appointed by the Home Office, and the Home Secretary is responsible both for seeing that the law is kept and for planning the changes in it which industrial progress makes possible—though here his work borders on that of the Minister of Labour. The Factory Acts will only work properly if both employers and workers understand their purpose and are prepared to help: the object of the Home Office Industrial Museum in Horseferry Road is to illustrate the best methods of making machinery safe, and the most frequent causes of accident and ill-health among workers.

(ii) PUBLIC WELFARE. This title has to be vague in order to cover a list of activities ranging from the enforcement of laws against cruelty to animals, to regulating the contribution to charity from Sunday cinema performances. A good deal of this work is carried on by local authorities and magistrates—for example, the licensing of dog-racing tracks and public houses—but questions in Parliament on these topics will be addressed to the Home Secretary. The latest addition is the Air Raids Precautions Department: this also intends to work through the local authorities, though the nature of the task will make a good deal of central control necessary.

3. *Status of the Home Office.* The Home Secretaryship used

not to be thought one of the most important posts. Ambitious statesmen would look rather to the post of Chancellor of the Exchequer, or Foreign Secretary, or, of course, Prime Minister. But of late years the Home Secretaryship has grown in prestige, and the reason is worth examining. A clear distinction has appeared between the political and the social work. The former will not appear important and exciting if citizens are as law-abiding as those of Great Britain, and if democracy does not seem to be in danger. But if any party is aiming at dictatorship, the Home Office—or its equivalent, in other countries—will be one of the strategic points in the struggle. By pardoning members of his own party convicted of political crime, and by giving instructions to the Police to favour one side, the Minister can endanger the State. Germany, where democracy has been overthrown, and France where it has been attacked, illustrate the importance of this office. Here there has been no such serious problem. In the last few years, however, Fascists have excited anti-Jewish feeling in the East End of London, and the present Government has expressed alarm at the possible effect of pacifist and communist propaganda among the Armed Forces. Consequently, two Acts have been passed:—the Public Order Act, dealing with the powers of Police, and with public meetings; and the Sedition Act, to protect the Armed Forces: these have focussed much attention on the Home Office. Similarly, it was only when *laissez-faire* was in retreat, and the Government gave increasing attention to working conditions that the social work of the Home Office would rise in importance. Meanwhile, the matters, great and small, which affect personal happiness—betting, entertainment, the banning of books—have been surprisingly neglected. They do not divide opinion on the usual party lines, and each party hesitates to handle them for fear of losing some of its own supporters.

The powers so far described are exercised only in England and Wales. The Province of Northern Ireland sends members, and is subject, to the Parliament at Westminster: so far as any

person is responsible to Parliament for its Government, that person is the Home Secretary. Northern Ireland has, however, a Parliament and a Home Minister of her own, and is in practice allowed to manage her Home Affairs as she pleases. The English Home Secretary may also be considered responsible for the Channel Islands and the Isle of Man, but these also enjoy practical independence in their internal affairs.

#### THE SCOTTISH OFFICE.

Scotland, although now part of Great Britain, can look back over many years of complete separation from England, during which she had built up a form of Government and a religious tradition of her own. Her economic problems, also, are not always the same as England's because of her colder climate and the barrenness of much of her land. Her educational system is much older than that of England; this is perhaps one explanation of the remarkably large part played by the Scots in the life of Great Britain. For these reasons it has proved wise to administer some Government activities separately, for Scotland. The Secretary of State for Scotland performs the work done in England by the Home Secretary; and has under his control Departments for Health, Education, and Agriculture and Fisheries. When Acts of Parliament affecting these activities are passed, a separate Act is often passed for Scotland.

There is some feeling in Scotland that the country is neglected by the Westminster Parliament. Post-War unemployment has hit certain districts very hard and created problems not always understood by English politicians. So there has arisen a demand for some measure of Scottish Home Rule; it finds a place in the programme of the Liberal and Labour Parties, though no definite scheme has been planned. Scottish Nationalist candidates occasionally appear at elections, but so far without success. This is probably because it has not been proved that further separation of Scottish from English government is the remedy for Scotland's problems. There are parts of Scotland suffering great poverty;

there are also distressed areas elsewhere and the cause of their difficulties is fundamentally the same—the strain put on Great Britain by economic changes since the War. Many Englishmen are no more—and no less—ignorant of Scotland than of South Wales or the Tyneside. There is no “Scottish question” comparable to the long-standing “Irish question”; there is not, in Scotland, a nation determined to end a connection which she hates. There is, rather, an outstanding example of the difficulty of making the Central Government pay sufficient attention to the peculiar problems of certain districts.

#### THE FOREIGN OFFICE.

The purpose of this Office is to represent the State in its relations with foreign Powers. From this fact two results follow. First, that its officials enjoy a special prestige, and exceptional ceremonial is attached to its actions; therefore it has been slower than most Departments to change its organisation and method of recruitment. Second, that its organisation must be nearly that of a State—it must concern itself with military, commercial, legal and industrial matters, since, from all these, questions of international policy arise. These two results are likely to conflict with one another; rapidly changing methods of diplomacy require the Foreign Office to be up-to-date and adaptable; its own traditions strive to make it rigid.

It is divided into twelve Departments—some of which, such as the American, are concerned with a particular region, and others, such as the Passport Office, with a particular subject. The work may be classified as follows:—

1. *Keeping in touch with Foreign Countries.* At home, the Foreign Secretary regularly receives the foreign Ambassadors and Ministers; abroad, a Diplomatic Service is maintained. In the latter, there is for each State an Ambassador—or for States of lesser importance, a Minister—assisted by Attachés—i.e., officials with special knowledge, as, for instance, on military affairs. The task of the Diplomatic Service is to inform the Foreign



Office regularly of the state of affairs abroad, the feeling entertained by foreign States toward this country, and any events likely to influence our foreign policy. The Ambassador is naturally expected to behave, in personal relations, in such a way as to promote good feeling, and to refrain from taking sides in the political controversies of the country to which he is sent. In 18th century Europe, ruled by aristocracies which had much in common, the chief qualification for this part of diplomacy was polished manners and a good memory for rules of etiquette; to-day, with Government in the hands of many different classes and kinds of people, a deeper knowledge of the social forces at work in each country is desirable.

2. *Assisting British Subjects Abroad.* This is sometimes an Ambassador's work—for example, if British subjects are arrested abroad on a serious charge, it is his business to see that they are given a fair trial. But for lesser, or more private matters, and particularly for advice about their property, British subjects turn to the British Consul. The Consular Service, though in close touch with the Foreign Office, is, strictly speaking, under the control of the Overseas Trade Department. This Department, controlled jointly by the Board of Trade and the Foreign Office, is able, from the reports it receives through the Consular Service, to supply business men with a large number of publications describing conditions abroad, the possibilities of trade and investment, and the commercial laws of various countries. The personnel of the Foreign and Consular Services are separately recruited, nor do members of one pass into the other. This is the more surprising in view of the close connection between the feelings which States entertain towards each other, and the opportunities for international trade. Unpaid debts, tariffs, and other trade restrictions are certainly one cause of the uneasiness in modern world politics.

3. *Planning Foreign Policy.* The Foreign Secretary has to decide what general line of policy Britain will follow and what attitude she will take on any critical question, such as the Spanish

Civil War. He has also to see to the making and revising of Treaties; for this he has legal advisers, and one of the Departments of the Foreign Office studies international law. The old idea of Foreign Policy was that the State should decide what it wanted for itself, and, by treaties and alliances, try to gain its object. The newer idea is that the purpose of Foreign Policy is to maintain peace, and that to do this it will be necessary to consider the wishes of other nations besides one's own. Since the War an attempt has been made to express the new idea in the League of Nations. The two ideas have struggled together in the world and in the foreign policies of this country, and the problem of adapting Civil Servants to new ideas has been particularly important in the Foreign Office.

There used to be a tradition of "continuity" in foreign policy—i.e., a belief that it should not be changed when Government shifted from one party to another. It was regarded as a skilled mystery which could not be thrown open to popular discussion. To-day, however, the conflict of ideas described above makes "continuity" difficult; nor is it possible to keep foreign policy out of political argument. The people are brought nearer to foreigners by newspapers, wireless, education and travel; they pay for armaments and will be required to fight in wars; foreign policy can therefore excite popular interest as readily as Unemployment Assistance or anything which touches the most intimate details of life. This growth of interest has been helped by the publicity given to the League of Nations. The special task of looking after League of Nations Affairs is given to one of the two Parliamentary Under-Secretaries of State for Foreign Affairs, and sometimes a separate Minister is appointed.

Peace, war, and treaty-making are parts of the Royal Prerogative, so that the connection of the Foreign Office with the King is closer than that of other Departments. All dispatches of any importance, sent out by the Foreign Office, are shown to the King, and the Foreign Secretary will have to consider what effect the personal acts of the King may have on foreign opinion;

far more foreigners read what the King of England is doing than read the reports of Parliamentary debates. A treaty, once drawn up, requires only the King's signature to become effective; it need not, legally, be submitted to Parliament, unless, to bring it into force, some change in the law is necessary; this will occur frequently in treaties which regulate trade and require alterations in import duties. Any treaty of first-class importance to-day, would, however, be submitted to Parliament after it had been made, even if no change in the law were required.

#### THE ARMED FORCES.

Behind the Police for keeping order at home, and behind the work of diplomacy, stand the Armed Forces, the organised power of the State. In Britain, the Navy—the "Senior Service"—the Army, and the Air Force, the newest of the three, have each a separate history and organisation. It will be convenient first to state briefly the way in which each is controlled, and then to examine certain features and problems common to them all.

*The Navy.* This was once under the control of the Lord High Admiral. The office, like that of Lord High Treasurer, has been put into Commission, and the Navy is now ruled by the Board of Admiralty. Three of its members are politicians—The First Lord of the Admiralty, who is responsible to Parliament, the Parliamentary and Financial Secretary, and the Civil Lord. Their colleagues on the Board are four Sea Lords, who are sailors and not politicians. While the First Lord determines policy, the Sea Lords are required to carry it out—to see to the building of ships, the recruitment and discipline of men, and the disposition of the Navy over all the trade routes it is intended to protect.

*The Army.* The controlling authority here is the Army Council, which is organised on the same plan as the Board of Admiralty. The political members are the Secretary and Under-Secretary for State, and a Financial Secretary. With them sit four Military Members and a Director of Munitions Production. The Council controls both the Regular Army and the Territorials

who are only liable for service at home. For the latter the Council works with the help of local Territorial Associations.

*The Air Force.* When, early in this century, it appeared that flying was going to play an important part in warfare, both Navy and Army developed Air Services which were first brought under one authority during the War. Control belongs to the Air Council, presided over by the Secretary of State, with the Under-Secretary as Vice-President. They are assisted by the Chief of Air Staff and three Air Members, dealing with Personnel, Research and Supply. Connected with the Air Ministry there is also the Director of Civil Aviation, who works under the Secretary of State, but separately from the Air Council.

*General considerations.* It will be noticed that each of these bodies is a mixture of politicians and experts. The latter cannot properly be compared with the Civil Servants of other Departments; indeed, each of the Defence organisations has a Secretary who, with his assistants, performs the work of a Civil Service. In these three departments there is a real sharing of control; the First Lord and the Secretaries of State are, it is true, responsible for their Departments but they are usually far more under the influence of expert advice than other Ministers. The overwhelming importance of efficient defence makes them afraid to go against the advice of experts unless they are very sure of their ground. Further, the sailor, soldier and airman enjoy a respect from the public which is not usually given to Civil Servants. This feeling is explained partly by the fact that men of the Armed Forces give up much of their liberty and may be called on to risk their lives in the public service. There is also a less creditable explanation; in a world still ruled largely by force and fear, the experts in force can always command respect. The influence of experts is particularly noticeable in the Navy, the prestige of which, in an island country, is naturally great. The Sea Lords' opposition to plans for Disarmament in 1927 is well known, and it was partly on their advice that the Sedition Act was passed. There are two dangers in this situation.

First, that it may lead to militarism—i.e., the belief that war is the only way of settling disputes, and that the country exists for the sake of the Armed Forces, not the Armed Forces for the country. Second, it may actually weaken the efficiency of the Forces. Their whole training encourages the habit of obedience, and of accepting things as they are; after years of such training it is not easy to keep the mind open to new ideas. The reluctance of the Navy to realise the importance of the submarine, and the slowness with which the Army adopted the idea of the tank, are illustrations.

In all three Forces, the officers are drawn from one class, the men from another. Promotion from the ranks does occur, but it is not the rule. The dangers of this to liberty have already been noticed; there may be the further result that the grievances of the ordinary soldier and sailor about pay and conditions will not be fully understood by those in command. The mutiny at Invergordon, in 1931, when cuts in pay were proposed, might never have occurred if the Board of Admiralty had realised what the proposals would mean to the men. It is an unfortunate fact that Governments have usually been induced to make improvements in naval life by the fear of mutiny. Recent improvements in Army conditions have also been caused by the impossibility of getting sufficient recruits without them.

All the Armed Forces are recruited voluntarily; the system of compulsory military service, so common on the Continent, has never been used here except in wartime. The old dread of increasing the power of the Crown, and the natural objection of citizens to compulsion, have made the idea of conscription unpopular. If military discipline turns citizens into people who will always do what they are told, and regard war as a permanent habit of mankind, no lover of peace or liberty can approve conscription. On the other hand, if all citizens have some military training, the danger of a seizure of power by the Armed Forces is much less.

Finally, there is the problem of co-ordination of the Defence

Services. During the War this task fell on the War Cabinet, and the disagreements of the Services both with one another and with the civil authority have been set out in a long series of memoirs and autobiographies. Since then the demand for a single Ministry of Defence has been growing and in 1936 Sir Thomas Inskip was appointed Minister for Co-ordination of Defence. He is not, however, in authority over the Services but rather a liaison officer between them. Further co-ordination is provided by the Committee of Imperial Defence. This is a body presided over by the Prime Minister and attended by whomever he summons to consider the particular problems before it at the time. The proposal for a Ministry of Defence is urged on the ground that the present co-ordination is too slight, and the Prime Minister already too occupied to give sufficient attention to the work of the Committee of Imperial Defence. The separate representation of each Service in the Cabinet may cause matters to be argued out there which could be more conveniently settled by a Defence Minister with the political chiefs of the Services under him. Opponents of the proposal claim that the Committee of Imperial Defence and the new Minister do the work adequately and that the subordination of the Services to a single Minister would dwarf their importance. The problem has been given a new turn by the nature of modern warfare. A State at war to-day must devote its entire economic system to the task, and even the peacetime level of armaments makes great economic demands. If world armament is to continue at its present rate, the task of preparing for war will become the chief concern of Governments, and the need for a strong centralised control will be greatly increased.

#### BOOKS:

- \*OGG. *English Government and Politics.*
- HEATH. *The Treasury.*
- TROUP. *The Home Office.*
- CLIVE. *The People's Army.*

## CHAPTER VII

# THE ECONOMIC ACTIVITIES OF GOVERNMENT

The Post Office  
The Ministry of Transport  
The Ministry of Agriculture and Fisheries  
The Board of Trade  
Conclusions

"The third and last duty of the Sovereign or Commonwealth," wrote Adam Smith, after he had dealt with Defence and Justice, "is that of erecting and maintaining those public institutions and those public works which, though they may be in the highest degree advantageous to a great society, are, however, of such a nature that the profit could never repay the expense to any individual or small number of individuals, and which it cannot therefore be expected that any individual or small number of individuals should erect or maintain. The performance of this duty, too, requires very different degrees of expense in the different periods of society". Adam Smith was a champion of private enterprise, but he realised that it cannot work unless the State provides it with a framework of public institutions, of which a system of roads, and lighthouses, are obvious examples. It is also clear from the last sentence quoted that Adam Smith saw the Government activity of this kind would grow. Since his day there has been an increase of services, such as railways and electricity, for which complete competition is not an efficient form of organisation; and the State has extended its control to protect the public from private monopoly. Further, as has been noticed in the discussion of the Treasury, the growth of large-scale business draws the State more and more into

the economic field. This chapter will deal with four Departments to which these economic activities are entrusted.

#### THE POST OFFICE.

This Department is run by a Board composed of two politicians—the Postmaster-General and the Assistant P.M.G.—and a number of Permanent Officials, including a Director-General and Directors for the different aspects of the work. The Board's first duty is to organise the postal, telegraph, and telephone services. Out of these it makes a profit which was at one time paid over to the Treasury. The Post Office, in consequence, had not sufficient money to improve its services; being thus prevented from adopting new ideas it developed a rigid attitude which aroused a good deal of criticism. In 1932 a Committee was appointed to report on Post Office organisation, and several reforms were introduced. Chief of these was that the Post Office should in future pay a fixed sum to the Treasury, so that any profit above this might be used for development. A number of Advisory Committees keep the Post Office in touch with the business world, and in recent years its services have much improved. Other recent reforms have been the shifting of work from Headquarters to the London and Provincial organisations, and the appointment of a Director of Personnel, since it appeared that the training of the staff, and the relations between the Post Office and its employees, were not receiving sufficient attention.

The Post Office does not concern itself only with communications. Having offices in every town and village, it is a convenient channel for much Government business. It sells National Health Insurance Stamps, and acts for those insured persons who do not belong to an Approved Society;<sup>1</sup> it administers Old Age Pensions and War Pensions. These, however, are only matters of routine for the Post Office; the determination of policy lies in other hands. It acts as a financial agent for the Government by selling National Savings Certificates, and through the Post Office

<sup>1</sup> See Ch. VIII.



Savings Bank. The money deposited here comes under the control of the National Debt Commissioners; they invest it in Government Securities, or may lend it, along with other money which comes to them, to Government Departments. The Post Office itself receives money from the Commissioners for capital expenditure—e.g., on buildings, or telephone equipment. The sudden realisation by the public, at the Election of 1931, that for many years, Savings Bank money had been lent to the Unemployment Insurance Fund, created a good deal of alarm. In fact, the money is in the same position as any other money lent to the Government; it is safe so long as the Government is not, as a regular practice, spending more than its income.

The P.M.G. is responsible to Parliament for broadcasting, though this is controlled, separately from the Post Office, by the B.B.C. At present, power is left to the Governors and the Director. The independence of the Corporation is shown by the fact that the Director has, on more than one occasion, addressed groups of M.P.'s and dealt with criticisms. These have usually been aimed at three points:—personnel—the choice of people to broadcast, and the relations between the B.B.C. and its staff: cultural standards—the comparative time, for instance, allotted to dance music and to serious subjects: and the attitude of the Corporation towards politics. One point has been dealt with by allowing the staff to form an association. As to the others, the Ullswater Committee recommended in 1936 that a special Minister should take over responsibility, since the duties were so different from those of a P.M.G. The Government did not adopt this plan, arguing that the Corporation should be independent. Certainly, if the B.B.C. were completely under Government control, the party in power would be able to use what should be national property solely for its own propaganda. But at present there is the unsatisfactory position that the delicate question of keeping the B.B.C. impartial and allowing all shades of opinion a chance at the microphone is settled by people who are not, in effect, controlled by Parliament. In all

ordinary activities the Government is entitled, and expected, to carry out the policy of the party to which it belongs; but the B.B.C. must give scope to minorities who disagree with the Government. The problem of securing control by the people, that shall not become control by the majority party, is not yet solved. One plan worth examination would be the appointment of a permanent Committee of M.P.s—and, perhaps, of representatives of the holders of wireless licences—to advise the Director.

#### THE MINISTRY OF TRANSPORT.

The two chief activities of this Department are the control of Roads and Railways. Road Transport was at one time the concern, partly of local authorities, and partly of private companies. The growth of trade, and the increase of motor traffic have made the task of maintaining proper roads increasingly expensive, and so more suitable for control by the Central Government. To-day all main roads are under the direct control of the Minister of Transport. The money required to repair and develop them comes from the taxes paid by private motorists and commercial vehicles. Until 1936 these taxes formed a separate Fund, but Chancellors of the Exchequer, short of money to balance the Budget, frequently "raided" the Fund, to the indignation of motorists. The taxes and the expense of roads now go into the national accounts with the other items of income and expenditure; but it is probable that there will still be some relation between the amount that owners of vehicles pay and the benefit that they receive. The amount of road development is not, therefore, determined by the Minister of Transport, but by the Chancellor. The Minister does, however, decide what use shall be made of the money at his disposal, whether on the roads under his control or by making grants to local authorities. He can obtain from the Development Commission power to compel landowners to sell land needed for roads at a reasonable price.

Road safety is the part of the Minister's work that brings him most into the public eye. His Department collects and classifies statistics of accidents, and tries to frame its policy accordingly. But the efficacy of Acts of Parliament, or of the Minister's safety regulations, depends largely on the attitude of magistrates. The best regulations will not help if offenders against them are too leniently treated; and respect for the law is not encouraged by the fact that the same offence may be punished by a 40s. fine in one part of the country and imprisonment in another. The Highway Code issued by the Minister may be regarded as a Ministerial addition to the law; when an accident occurs, the driver's observance, or non-observance, of the Code will go far towards deciding the case.

Railways have always provided many problems for the Government, which has had to consider compensation for land-owners, safety, and the protection of the public from excessive charges. The first policy of trying to encourage competition was soon abandoned as wasteful, and in 1921 the Railways Act compelled nearly all the companies to amalgamate into four large groups. Once these monopolies were created, it was necessary to control them. The Railway Rates Tribunal was set up to fix the charges which might be made, and to prevent unfair discrimination against any particular class of railway-users. The Minister has some voice in the appointment of Members of this Tribunal, but he has to consider the right of both the railways and their customers to be represented. There is also a Board which considers wages and conditions, but its Chairman is appointed by the Minister of Labour. It cannot compel the companies or their workers to accept its findings, though they have frequently done so.

Inspectors are employed by the Ministry to see that the companies take the precautions which the law requires for safety, and to hold inquiries into accidents.

From time to time Committees set up by the Minister make recommendations concerning the development of the Railways,

and their relations with other forms of transport. The preparation of any new laws would be the Minister's task, though the chance of enacting them would depend on the attitude of the Treasury. Thus the proposals of the Weir Committee for electrifying the Railways must wait for financial help.

There are two partly independent authorities connected with this Department—the London Passenger Transport Board and the Central Electricity Board. The former is appointed by a group of institutions, some public and some private; it carries on its work independently within the limits set by the London Passenger Transport Act. This Act, as originally planned by Mr. Herbert Morrison, when he was Minister of Transport, required that the Board should be appointed by the Minister. But before the Bill became law the Labour Government to which Mr. Morrison belonged had fallen, and their successors adopted the present plan. So London Transport is not a department of Government but, rather, a private concern under exceptional measures of public control. The members of the Central Electricity Board, on the other hand, are appointed by the Minister. The generation of Electricity is carried on by private persons, and its distribution either privately, or by local authorities. The work of the Board is simply to select certain generating stations and arrange for transmission, with the object of cheapening the supply. There has been a great increase in the use of electricity since the Board was appointed in 1926; but development is still hampered by the lack of organisation in distribution.

#### THE MINISTRY OF AGRICULTURE AND FISHERIES.

The first purpose of this Department was to collect information about agricultural methods. It soon appeared that there was a special need for the Government to act in the prevention of disease among animals. Farmers could not be left to deal with this as they pleased, since the carelessness of a few could cause widespread infection. The Ministry, through its Inspectors,

sees that the legal standards of health and cleanliness are maintained; it receives reports of the outbreak of infectious disease and makes orders to restrict the movement of animals, or for their destruction. The study of disease led to the general application of science to agriculture, and to-day the Ministry runs experimental farms and agricultural colleges, either under its own control, or through the Agricultural Committees in each county.

As world trade increased during the 19th century, Britain's special fitness for industry and commerce was made plain. Her land was unsuitable for agriculture; but by developing her industries and importing food from less industrialised countries she could keep her growing population and give them a rising standard of life. The repeal, in 1846, of the taxes on imported wheat was a sign of the way\* of life which Britain had chosen. For some years after that date British agriculture flourished, by improving its methods; but the development of new lands overseas, and the steamship and railway which carried their produce, were too strong. Since about 1875 British agriculture has lagged behind other branches of production; the prices of produce and the wages of workers have been low, and there has been a steady movement to the towns. The wartime revival ended as soon as trade resumed its normal course. There are now three reasons why the Government is inclined to give special attention to agriculture. First, Britain's export industries have not their old place in the world's markets, and are therefore less able to provide her with food; secondly, the fear of war leads her to consider the possibility of increasing home supplies of food; and thirdly there are the recent scientific discoveries of the amount of under-feeding in Britain and of its effect on health. The attention takes two forms—a concern for the conditions of agricultural workers, and a series of schemes to give the farmer a better price for his produce: and the duties of the Ministry have grown accordingly.

*The Worker.* An Act passed in 1924 set up Wages Committees

in each county, and a Central Wages Board. The latter, however, cannot fix wages, but only review the decisions reached by the local Committees, which can lay down a legally enforceable minimum wage. The Ministry is represented on the Board and the Committees, and there are frequent discussions with the Minister whenever changes are made in the minimum rates. Although wages have risen since the Act was passed, they are still very low, because of the weakness of Trade Union organisation, and the depressed condition of agriculture.

*Prices and Production.* In 1931, when Dr. Addison was Minister of Agriculture, an Agricultural Marketing Act was passed which gave a majority of the producers of an agricultural product power to make plans for its marketing which should be binding on all producers. At the Ottawa Imperial Conference in 1932 decisions were taken to check foreign imports of food into Great Britain. The two ideas, of checking imports and of organising home production, were brought together by Mr. Walter Elliott in the Act of 1933. Under this Act a number of Boards have been set up, of which the Milk Marketing Board is a well-known example. Their object is to fix the price at which farmers may sell to those who distribute the product; when, as has frequently happened, there is disagreement, the Minister may act as an arbitrator. The restriction of imports has certainly helped to raise the price the farmer gets, but as the Acts do not give the Minister any control over distribution, the consumer has suffered. At the same time schemes for Meat, Wheat and Sugar have caused about £40,000,000 to be paid in subsidies.

Agriculture thus provides a remarkable example of Government control of economic life. It would not be possible to extend this kind of Government control to all industries, because it is, in effect, a passing round of the hat for the benefit of one section. The special reasons for favouring agriculture have been mentioned; but the simple plan of helping it at the public expense cannot be the foundation of a permanent policy. The tasks of the Ministry of Agriculture in the future will be to try to increase

the consumption of food, to promote scientific research, and to improve the methods of distributing agricultural produce to the public.

#### THE BOARD OF TRADE.

The "Board" exists in law but not in fact; it is, officially, a Committee of the Privy Council and contains many members—for example the Archbishop of Canterbury—who take no part in the work, which is carried on by the President and the Parliamentary Secretary. There are two additional Parliamentary Secretaries—for the Mines Department and the Department of Overseas Trade, which is the link between the Board of Trade and the Foreign Office.

Much of the Board's work is routine. If private enterprise is to flourish, the Government must protect the public from industrial and commercial fraud. For this purpose there are Acts stating how Joint Stock Companies are to be formed, and how their accounts must be published; to establish standard weights and measures, and see that they are used; to protect the rights of inventors by granting patents. The Board administers laws of this kind. It also gives positive help to trade and industry by providing business men with knowledge which no private person could collect for himself. It publishes statistics of prices, production, exports and imports, and information about raw materials and markets.

Like the other economic Departments, the Board has recently extended some of its duties, because of the state of the world and the policy of the Government. Since the War, there has been a rapid growth of tariffs and other hindrances to world trade. Fearful of war, nations have striven to become self-supporting, or have cut down their imports in order to be able to pay debts to foreigners. When one nation acts thus, another finds its markets closed, and, in consequence, tries to keep its home market to itself. So the barriers to trade increase and have made recovery from the slump of 1932 very difficult. Everyone

now agrees that the barriers should be lowered, but no nation wishes to act first. Britain, which imports the necessities of life, feels the inconvenience of the situation keenly, and has tried to relieve it by making trade agreements with a number of countries. These may provide that neither side shall add to existing barriers; or that each shall in future take a certain amount of produce from the other. The Board, anxious to get markets for British exports by granting a market in Britain to foreigners, has at times had disagreements with the Ministry of Agriculture, anxious to restrict imports and to keep up prices at home; or with the Dominions Office, anxious to keep on good terms with the Dominions by granting specially favourable terms to their imports.

Another special activity is the care of the shipping industry, which has been hard hit by the decline in world trade. The Board has always had many routine duties connected with the safety of ships: to these, since 1934, have been added the administration of a subsidy to tramp shipping, and the granting of loans for the building of new ships.

The Mines Department shows a similar combination of regular work and special policy. There is the important routine duty of encouraging research into the best way of using coal, and enforcing the laws as to hours of work and safety in mines. The latter task is performed under the supervision of a Chief Inspector. The inquiry into the terrible disaster at Gresford in 1934 brought out one of the Department's chief difficulties—namely, that when there is much unemployment among miners, many will hesitate to risk their jobs by reporting breaches of the law.

The coal industry has suffered from the competition of oil and electricity: relations between employers and men have rarely been good: the organisation of the industry has been inefficient. All these facts add to the work of the Department. It has often to act as a conciliator in disputes: under the Coal Mines Acts of 1930 and 1934 it tries to encourage the amalgamation of mining



concerns, and has to supervise the schemes which the various districts have power to make, for limiting output and maintaining prices.

#### CONCLUSIONS.

It is now possible to make a few comments on the economic Departments as a whole. In all of them, Adam Smith's prophecy has proved correct; the present time is a "period of society" when Government economic activity has to be increased, and the habit of not considering difficulties until they arise has proved a drawback. Each Department has, tacked on to it, Boards and Committees, partly independent, partly under Government control; the constitution of them has been the result of a series of compromises with the interests involved—coal-owners, omnibus companies, electrical undertakings. There has not been any consideration of the general rules that ought to be observed, in the public interest, when these great centres of economic power are formed. Further, the Departments often reach out a helping hand to those who are faring worst in the economic struggle. This is natural enough; but it may weaken the efficiency of private enterprise by creating the belief that the State will always help the inefficient out of their difficulties. In general, there are many schemes, but no one line of economic policy; urgent problems are dealt with, but little is done to prevent those problems arising.

There is one body which may take on the task of framing an economic policy. This is the Economic Advisory Council, created by Mr. Ramsay MacDonald, when he was Prime Minister, in 1930. Mr. MacDonald's knowledge of politics was comprehensive rather than precise, and the Council bears his stamp. It is composed of those Cabinet Ministers whose work is specially connected with economic problems, together with anyone else whom the Prime Minister thinks suitable. When the list of its members was first read to the House of Commons, one M.P. inquired whether old Uncle Tom Cobley had not been forgotten.

The Council is intended to contain people belonging to all parties, or to none; and therefore finds it difficult to give unanimous advice on policy. At present, the Council has not been properly fitted into the Constitution. It may become the type of a new kind of Civil Service, recruited not from people just finishing their education, but from those with experience of the world; and it may turn into the Civil Service Department of a Minister for Economic Affairs. Its present uncertainty is a sign that the Constitution needs to develop a new organ to deal with the economic problems thrust upon it by a fast-changing world.

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*Report of the Bridgeman Committee on the Post Office.* 1932.

*Report of the Ullswater Committee on Broadcasting.* 1936.

LLEWELLYN SMITH. *The Board of Trade.*

H. MORRISON. *Socialisation and Transport.*

ROBSON, AND OTHERS. *Public Enterprise.*

(New Fabian Research Bureau).

## CHAPTER VIII

# THE SOCIAL ACTIVITIES OF GOVERNMENT

Need for Social Activities  
Ministry of Labour  
Industrial Relations  
Employment  
Special Areas  
Ministry of Health  
Local Government Supervision  
Insurance and Pensions  
Board of Education

### NEED FOR SOCIAL ACTIVITIES.

Inequality of wealth and opportunity is one of the chief facts of society in Great Britain, and indeed in most other countries. This inequality is a necessary part of private enterprise; the chance of becoming one of the wealthy is the spur by which such a system seeks to drive men to work, to save, and to invent. Nor is there any doubt that in the nineteenth century the results of this incentive were remarkable; no less remarkable, however, were the evil consequences of inequality. In the early years of the century a limited number of people attained great wealth and power, but the masses lived in poverty, ill-fed and insanitariously housed, and with the merest fragments of education. The talents of children born into such conditions were necessarily stunted, and the development of industry made it progressively harder for a man to rise from the station in which he was born. Hence it became difficult to argue that the great fortunes were the rewards of service, and the working class, assembled in towns began to organise and to demand a better life. Fear, wisdom, and humanity together induced Governments to modify the rigour.

of Capitalism by the introduction of a series of "social services" which now absorb a large part of the energies of Government, and have served as an example to many other countries. These services oblige the Government to spend a great deal of money, and for this reason are sometimes represented as a burden on the country's industry. But there are several ways in which they help to increase the production of wealth. By raising the standard of life of the poorest people, they improve health, and thus make the workers of the country more efficient; by providing better houses, and looking after sanitation, they reduce the wastage of life and resources caused by disease; through universal education, they release for the service of the community, a stream of talent which would otherwise be undiscovered. Even those measures, such as Old Age Pensions, which do not appear to be directly productive, have at least the advantage that they make the worker more willing to co-operate in a system of society which otherwise would not appear to have much justice in it for him. There is no need, however, to justify the social services solely on the grounds that they increase the total of wealth; the well-being of a country should be measured, not simply by this total, but by the standard of life which the mass of citizens are able to enjoy: and it is certain that the social services have contributed materially both to the comfort and the security of the worker.

The function of these services may be summarised as follows:—to provide for those, who by reason of old age, sickness or unemployment, are unable to provide for themselves, and to prevent the inequality of wealth from becoming so great as to endanger the whole social system. The work is shared among three departments, the Ministry of Labour, the Ministry of Health and the Board of Education.

#### THE MINISTRY OF LABOUR.

This Department lies on the border line between economic and social activities. Its first object was economic; by preserving good relations between employers and employed, and by helping

workers to find employment, it was to assist production. But as the numbers of people unable to find work increased, the Ministry became ever more occupied in the social duty of providing for them.

*Industrial Relations.* The Factory Acts, administered by the Home Office, prescribe maximum hours and minimum requirements for safety and health. Apart from these Acts, and the regulations of the Mines Department, wages, hours, and conditions are left to employers and employed to settle for themselves, usually by "collective bargaining", i.e., agreements between employers' associations and Trade Unions, to cover all the workers in the industry, or, at least, in a particular district. But if a deadlock is reached, and a strike or lock-out seems likely, a representative of the Ministry of Labour will intervene and try to bring about an agreement. Frequently the parties to the dispute will ask the Minister to help, or the collective agreement may provide that when any dispute cannot be settled by discussion, it should be referred to him. When a claim is made for an increase or decrease in wages, both sides try to fortify their case with statistics of the cost of living, or reports of conditions in similar industries abroad. These facts, along with many others, they can obtain from the Ministry of Labour Gazette. The years since the War have seen the growth of many new industries, particularly in the South of England. Trade Unionism has not become so strong there as in the older industrial areas; but since the new industries have so far been comparatively prosperous, the importance of this fact has not yet been made plain. It may be that in the future rising prices will provoke many demands for wage increases, and much work will be provided both for Trade Unions and the Ministry.

In some industries where wages are low, and Trade Unionism organisation often weak, Trade Boards are set up. An Act of 1909 created these boards for four industries, and, since the passing of a further Act in 1918, the Minister of Labour has power to make Orders for Trade Boards in other industries.

These Orders can be challenged in a court of law, and an attempt to set up a Board for catering was defeated on the ground that this was not the kind of occupation referred to by the Act. The Boards are composed of people elected by workers and employers, and some appointed by the Minister of Labour. They have power to fix maximum wages for their industries, or for any part of them, and Inspectors appointed by the Ministry see that these decisions are obeyed.

*Employment.* All over the country are the Employment Exchanges maintained by the Ministry of Labour—they are often called “Labour Exchanges” or more briefly “the Labour”. Through them employers and workers are put in touch with each other, and, together with the education authorities, they try to find jobs for children leaving school. The Ministry has power to give help to men moving to work in another part of the country. By these means, a certain amount of unemployment may be prevented, but much remains, the reasons for which lie in the economic system, and in the difficulties of Britain since the war. So the Employment Exchange has become the office through which the Acts dealing with Unemployment Insurance are administered.

The first of these Acts was in 1911, but it applied to only a few industries. The collapse of the post-war boom in 1920 greatly increased the problem; and the people, having been called on to make sacrifices for the State during the War, insisted that the State should give more attention to their conditions. An Act was passed in 1920, framing a larger scheme, and, though often altered in detail, it remained the basis of unemployment insurance till 1934.

By these Acts, workers, employers, and the State made contributions to a fund out of which benefit was paid for a fixed period to those unable to find work. The scheme was planned to pay its way; the unemployed man, was in fact, drawing his insurance money for which he had paid the premiums. The often used word “dole” was therefore unsuitable, and the comparison

some writers made between this scheme and the clumsy poor relief methods of Ancient Rome were inappropriate. But the great increase in unemployment during and after 1930, wrecked the plan; the fund borrowed from the Treasury, and there was no prospect of its paying back. Fear of an unbalanced Budget, and of national bankruptcy, caused the defeat of the Labour Government in 1931, and its successor brought in some very drastic and unpopular changes. When economic conditions began to improve somewhat, there were further changes, until the Act of 1934 remodelled the whole plan.

Part I of the 1934 Act provided that workers who had paid at least thirty contributions in the last two years before falling out of work could draw benefit for twenty-six weeks; according to contributions in the previous five years, benefit might be extended for as long as fifty-two weeks. This payment was one to which the worker, having paid his contributions, was entitled without any question as to his needs. Thus the fund was made solvent, and an Unemployment Insurance Statutory Committee was appointed to watch the finances of the fund, and make, from time to time, such recommendations as might be desirable for keeping it solvent, or distributing any surplus, or extending the scope of Unemployment Insurance. The chief step taken in the last matter has been the inclusion, in 1936, of agricultural workers.

But experience had shown that since unemployment cannot be foretold, it cannot be dealt with solely by an insurance plan. Part I only provided for about half the unemployed. Those whose claim for benefit had been exhausted, and those who had been in employment not covered by the Acts, were handed over to an Unemployment Assistance Board, created by Part II of the 1934 Act. Since these persons are not considered to be entitled to any payment like that made under Part I, they are subject to a Means Test. This test had been first applied to unemployment assistance in 1931, when the care of this class of unemployed had been given to the Public Assistance Committees, i.e., the

Committees of County Councils which deal with ordinary Poor Relief. The Means Test was unpopular partly because of the harsh inquisition which some P.A.C.'s made into the private affairs of the unemployed, and partly because it was a household means test—it enquired not only what resources the person asking for help had, but what his relatives could do to help him. Now that the Unemployment Assistance Board has taken over the work, the test will be applied on the same principles all over the country, but it is still a household test. The Minister of Labour has to present to Parliament the regulations under which the Board does its work, and secure approval for them. He also appoints the Chairmen of the Courts of Referees to which unemployed people, dissatisfied with the Board, may appeal.

The Board considers what sources of income each member of the households of those who apply to it may have. Have they, for instance, any savings? Does any one of them draw a war pension? Is any money being earned? It then makes up the income of the family to a figure which it considers will meet their needs. Unfortunately, the researches of doctors show that the incomes of the unemployed are not sufficient to keep them in proper health. Thus arises one of the burning questions of to-day; that despite the productive power of industry, and the comfort and luxury which some sections of the people enjoy, there is a large group who, from no fault of their own cannot find work, and for whom society scarcely provides adequate maintenance.

*Special Areas.* The poverty of the unemployed has become particularly noticeable in certain parts of the country where are situated such industries as coal mining and shipbuilding, which have suffered most from depression. Some of these districts are dealt with by an Act of 1934, appointing a Commissioner for "special areas"—generally called "distressed areas"—in England and Wales, and another Commissioner for Scotland. The work of the Commissioners in encouraging industrial development in the areas, and stimulating schemes for the training of the



unemployed, has been praiseworthy, but very limited in extent. The rearmament of the last few years has brought some relief to unemployment both in these areas, and elsewhere, but the problem is very far from being solved.

#### THE MINISTRY OF HEALTH.

This Ministry was created in 1919, to take over the duties of the Local Government Board, which itself had previously absorbed the Poor Law Board and the Board of Health. The growth of Health Insurance and Old Age Pensions in the twentieth century added to the work, so that the Ministry is now far more than its name implies. It is the most important of the social departments, and the chief link between the Central Government and the local authorities.

*Local Government Supervision.* It is convenient to give here a brief outline of the Ministry's work; its full importance will only become apparent from later chapters on Local Government. Anyone who surveys the progress of a number of separate local authorities, will discover that they possess considerable freedom, and that they differ widely in the spirit in which they approach their work. The task of the Ministry is to prevent local authorities from ignoring the law of the land, or making it impossible for the Central Government to pursue its own policy, and to provide such uniformity as is necessary to prevent confusion. The chief problem in this connection is that of *Finance*. Local authorities have to value the properties in their areas in order to see what the occupiers should pay in rates. The Minister appoints a Central Valuation Committee to which the local authorities have to report each year. Thus informed, the Minister is able to make recommendations to the authorities, or prepare alterations in the law, so that serious differences in the method of valuing shall be avoided. The Minister also appoints Auditors to see that the accounts of local authorities are properly kept, and that money is not spent on any object not put within their powers. When local authorities borrow money, they most frequently go

to the Ministry of Health, or sometimes to other Government Departments, for approval of the terms of the loan. The Ministry has also to make the elaborate calculations necessary to find out how large a grant of money each local authority is entitled to receive from the Central Government.

While most of the Acts concerned with *Public Health* are carried out by local authorities, the Minister receives the annual report of each local Medical Officer of Health, and from these is able to draw conclusions as to the need for improving the law, or for stimulating some local authority to do its work more thoroughly. Subordinate to the Ministry is the General Register Office, which supervises the work of the Registrars of Births and Deaths throughout the country. The "vital statistics" so compiled are an index of the efficiency of the health services. Closely allied to Public Health is *Housing*. A Central Housing Advisory Committee is appointed by the Minister under the Housing Act, 1936. Beside dealing with certain special problems of that Act, the Committee has to consider the general effect of all laws about housing, and report to the Minister; it is therefore likely to be a source of new legislation. Many past Housing Acts have provided subsidies to local authorities, so that they should be able to build houses for poorer people; these subsidies the Ministry has to distribute. Local schemes of slum clearance and new building impose on the Ministry the routine duty of holding enquiries; more exceptionally it has to order negligent authorities to proceed with this work. The *Public Assistance* activity of the Ministry of Health covers those poor who are not dealt with by the Unemployment Assistance Board. Here also the administration is carried out locally under the Ministry's supervision. It will thus be seen that the Ministry's functions in these services are:—to collect information, and use it for the development of policy; to extend and enforce the law, which it does by Regulations requiring Parliamentary sanction; and to be ready to take emergency action, should the local machinery break down.

*Insurance and Pensions.* The first National Health Insurance

Act was carried through Parliament under the direction of Mr. Lloyd George in 1911; though it has been much altered, the fundamentals of the system are still the same. In general, all manual workers, and all other workers earning less than £250 a year, are included in the scheme; the chief exceptions are those groups of workers who have similar schemes connected with their own employment. At the present time about eighteen million workers are affected. The great majority belong to Approved Societies, which are often connected with the Trade Union or religious denomination of the insured person. These societies receive weekly contributions from employers and employed, and some assistance from the State; they are thus able to pay sickness and disablement benefit when their members are unable to work through ill health. They are "approved" by the Ministry of Health, provided that they are not run for profit, and that they keep their accounts in the prescribed manner. For the 250,000 workers who do not belong to any society, the Ministry organises, through the Post Office, a separate fund. In addition to ordinary benefits, the insured woman or the wife of an insured man has a right to maternity benefit, and the various societies according to their resources may grant "additional benefits", such as treatment for eyes or teeth. Thus a society whose members are on the whole younger or less liable to illness than an average group of workers, will have more to spare for additional benefits; the inequalities in this respect are considerable, and constitute a weakness in the scheme. The Ministry periodically examines the resources of each society to see what additional benefits it can afford.

Medical benefit, i.e., the services of doctors, and the supply of medicines, provides a considerable administrative problem. Each County and County Borough has to set up a Local Insurance Committee composed of representatives of the Approved Societies, the local doctors, the Ministry of Health, and the local authorities themselves. These committees prepare lists of "panel" doctors and chemists, and arrange for the payment of their

services. There is not, however, any such delegation of work to localities as appears in the health or housing services; the local Committees do no more than carry out the instructions of Parliament and the Ministry.

It is hard to realise now the fierce opposition which National Health Insurance aroused when it began. There were many prophecies that the working population would malingering, or even deliberately incur accidents in order to draw insurance money, and it was argued that the worker was getting "ninepence for fourpence" because his employer and the State contributed to the fund. This latter provision, however, is reasonable, since the strain of work is a common cause of ill health; the fears of malingering have proved baseless. For many years the scheme has done so much to give people security, that it is difficult to imagine what life was like without it. Thus public opinion was prepared for the extension of the principle of insurance to cover old age and the loss of the family breadwinner.

In 1908 an Act had been passed providing pensions for persons over seventy. There was no arrangement for contributions, and the whole cost was borne by the State. The amount of pension varied according to the means of the applicant, and the maximum was ten shillings a week. It was pointed out with some truth that this arrangement discouraged people from saving while they were still young enough to work. In 1925 Mr. Churchill introduced a contributory pension scheme similar to that for Health Insurance. Employers, employees and the State pay into a fund under the control of the Ministry of Health. Hence, the insured person at the age of sixty-five, or the widow of an insured person, receives ten shillings a week; twenty shillings a week is paid to married couples, and there are further payments in respect of orphaned children. The pensioners are thus provided for till they reach the age of seventy; then they receive their ten shillings a week without any enquiry into their means. To-day, therefore, a person over seventy receives either, under the 1908-1924 Acts, a pension to which he has not contributed, provided

his means do not exceed £65 a year; or, under the 1925-1937 Acts, a pension to which no Means Test is applied; the latter scheme is naturally ousting the former. The whole cost of pensions over seventy is borne by the State. The pension schemes apply, with a few exceptions, to the same people as those who contribute to National Health Insurance. In consequence of an Act of 1937, people who are not manual workers, but whose incomes are less than £400 a year, can become contributors for pensions.

The Acts of 1908 and 1925 have been frequently amended. The position of widows whose husbands died before the latter Act was passed, is an example of the type of problem which arose and required fresh legislation. So it is not always easy for a person to know whether he or she is qualified for the pension. The Councils of Counties, and of the larger towns, have to appoint Pensions Committees to examine claims; in this task they are assisted by a Pensions Officer who is in fact, a Civil Servant in the Customs and Excise Department. Appeals can be made from the Pensions Committee to the Ministry of Health, for which a large volume of business is thus created.

The rapid growth of these three great systems of social insurance against unemployment, sickness and old age, is one of the most remarkable events of this century. Their combined effects on conditions of life is such that they must be regarded as a vital part of the political and economic structure of the country. Towards the cost, the insured persons and their employers contribute about £100,000,000 a year, and the State adds to the Unemployment Insurance, Health Insurance, and Contributory Pensions Funds about £35,000,000. The State and local authorities have to supplement this by providing pensions for those over seventy, and the payments for unemployment assistance and public assistance; this charge on public funds totals about £140,000,000. The resulting problems of public finance are discussed in a later chapter; for the present it is important to notice the £100,000,000 of contributions, half of which comes

from wage earners. These schemes are, therefore, a method of organising saving among those who have only small incomes. The worker who comes within all three, pays, every week, a sum varying, according to age and sex, between 1s. 2d. and 1s. 7d. This is a noticeable expense out of a wage of perhaps 50s., and it is arguable that the contribution should be graded according to the worker's income. None the less, a great many workers pay out further sums totalling over £50,000,000 a year, to private assurance companies whose expenses of management are decidedly higher than those of the State scheme. For this and other reasons it may be maintained that the contributions to, and amount of old age pensions, could usefully be increased. This raises a further problem. Unless the people change their habits, and start having larger families, the proportion of the population which is over sixty-five will grow, and the cost of providing for them will grow likewise.

It will be seen from this account that the duties of the Ministry of Health are exceptionally numerous; and that social insurance is a complex problem, involving the consideration of public finance, the national wealth, the mathematical treatment of facts, and the changes of population. At present the schemes are handled by more than one Department, none of which can give them its exclusive attention. They all involve charges on incomes of the people; they all have one object, the conquest of insecurity and poverty. It may therefore prove necessary in time to create a new Department, or an inter-departmental committee, so that the whole effect of these services, and the extent to which they fall short of achieving their object, may be properly studied.

#### THE BOARD OF EDUCATION.

The Board of Education was set up in 1899. In its history and in its present form it resembles the Board of Trade; for the Board is in name a section of the Privy Council, and in fact non-existent. The President of the Board controls the whole work of the Department, and is commonly known as the

"Minister of Education". His powers do not extend to Scotland,<sup>1</sup> and Welsh education is placed under a separate department of the Board. In the carrying out of its duties, the Board resembles the Ministry of Health; for the actual running of schools and colleges is in the hands of local authorities and private institutions, subject to the control and encouragement of the Board. The local authorities' schemes for education, and the by-laws which they make to enforce school attendance, require the Board's approval. Continuous control is exercised through His Majesty's Inspectors of Schools, who are appointed by the Board, and furnish it with reports, in the light of which it can decide whether to make the usual grants of money to local authorities. If the Board wishes the local authorities to develop some particular part of their powers, or considers that they need guidance on any point, it sends out Circulars. By this means the Board can influence the curricula of schools, and keep the education service in line with the general policy of the Government. If, for example, that policy is to reduce public expenditure, Circulars will be issued pointing out what economies the Board thinks desirable; while the Minister of Transport plans a Road Safety Campaign, the Board of Education will advise that instruction on this matter be given to school children. A recent Circular requiring local authorities to make increased provision for physical training in schools is a further example. A permanent Consultative Committee, whose members have experience of education, advises the Board as to this general control, and its reports, together with those of the Inspectors, form a basis for fresh legislation.

Many documents other than Circulars are issued by the Board, notably a Handbook of Suggestions for Teachers. Thus, though the Board does not lay down what is to be taught, nor what the methods of teaching should be, it can collect and disseminate the best available information.

Although it is the local authorities who engage teachers, the

<sup>1</sup> See Ch. VI. The Scottish Office.

scales of salaries, and the administration of pensions are directly controlled by the Board, in consultation with the Burnham Committees, and the various Teachers' Associations. The training of teachers in the Education Departments of Universities, is also supervised by the Board; while a University Degree is the usual qualification for secondary teaching, nearly 80% of elementary teachers hold a Certificate from the Board, and the proportion is steadily increasing.

A Medical Branch of the Board, in touch with the Ministry of Health, supervises the medical services, which have now become an important part of school activity. Further, in the interests of health and efficient education, the Board's architects examine plans for school buildings.

One of the objects of modern policy should be the construction of an educational highway from elementary school to secondary or technical school, and thence to a University. The Board, besides encouraging local authorities to make use of their powers of granting scholarships, arranges with the Universities for State Scholarships, and for the provision of adult education outside the walls of the University itself.

When the total effect of these activities is considered, it is clear that, decentralised though English education is, the Board can set the pace for educational improvement, and can increase the knowledge of educational methods. It has been remarked that in the past, ambitious statesmen have shunned the Presidency of the Board of Education as a blind alley—a post which was not itself of first importance, nor a step to higher office. This may have occurred because education for the mass of the people was once regarded as no more than an unfortunate necessity. To-day, two facts are becoming plain; first, that technical education is one of the chief factors which increase the national wealth;<sup>1</sup> second, that free Government requires intelligent citizens. As the importance of these facts is increasingly realized, the prestige of the Board of Education is likely to rise.

<sup>1</sup> See *National Income and Outlay*, by Colin Clark, Ch. XIII.



## BOOKS:

*Third Report of the Commissioner for Special Areas.* 1936.

BEALES AND LAMBERT. *Memoirs of the Unemployed.*

P.E.P. (Political and Economic Planning). *Report on the British Social Services.*

P.E.P. *Report on the Health Services.*

(See also list of books at end of Chapter XVIII.)

## PART II

# MAKING THE LAW PARLIAMENT AND PEOPLE

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### CHAPTER IX

## THE TWO HOUSES OF PARLIAMENT

Development of Parliament  
Relations Between the Two Houses  
The House of Lords  
One House or Two?  
Reform  
Conclusion

### DEVELOPMENT OF PARLIAMENT.

The history of Parliament goes back to the 13th century. Before that time the only rival to the King's power had been that of the Great Council, an assembly of the chief men of the Realm, some of whom were Lords Spiritual—Archbishops and Bishops—and some lay, or Temporal Lords. Nearly all of them were "tenants in chief"; that is to say, they held land, in accordance with the feudal system, directly from the King. Essentially, the Council was the organ of a class of great landowners. By the early 13th century there had developed in England two classes, possessed of considerable wealth but unrepresented in the Council—the smaller landowners, or "knights of the shire" and the burgesses of towns. The Crown, requiring money for wars in France, considered the possibility of summoning representatives of these classes to the Council so that they might make the necessary grants. In the reign of Henry III there was a rising of the barons and power passed for a time to their leader,

Earl Simon de Montfort. He, in 1265, summoned a Parliament which was the Great Council *plus* two knights from each shire and two burgesses from boroughs which had supported the barons. De Montfort was later overthrown, but the next King, Edward I, summoned in 1295 a Model Parliament composed in the same way as that of 1265. During the reign of Edward II, Parliament began to sit in two Houses; the Lords Spiritual and Temporal, who had been the Great Council, formed the House of Lords, and the new elements, the knights and burgesses, became the House of Commons. Membership of the new House was considered not so much a privilege as an expensive duty; and the shires and boroughs which paid part of their Members' expenses and knew that the chief work of Parliament would be to grant the King money, were often reluctant to carry out the election. But Parliament was, as its name showed, a place for talk; complaints of misgovernment could be voiced there and the discontented could find out how far their feelings were shared by those from other parts of the kingdom. The principle that the King must attend to the Commons' complaints before getting money from them, was gradually admitted, though not always enforced.

When, in 1399, Henry IV took the throne from his cousin Richard II, he sought to strengthen his position by getting the approval of Parliament. He was thus obliged to show respect to the Commons, and they secured the right of examining how the money which they granted was spent. The great nobles, however, were not prepared to let power slip from their hands, and began to use their armed retainers to interfere with the election of the Commons. At the close of the 15th century, the Wars of the Roses had weakened the nobility and given England a stronger Central Government than ever before. The Tudor monarchs of the 16th century found it wise to preserve Parliament as a means of keeping in touch with the classes on whom their power was based. Parliament, thus trained for Government, rivalled the Crown; the two forces struggled for

supremacy during the 17th century, by the end of which the Sovereignty of Parliament was established beyond doubt.

Thus far, however, it was only a Parliament for England and Wales. Scotland and Ireland, though under the same Crown as England, possessed Parliaments of their own, the Irish entirely subject to that of England, the Scottish an independent body, though somewhat overshadowed by the Kirk Assembly which was the real voice of Scotland. In 1707 the English and Scottish Parliaments became a united Parliament of Great Britain, and in 1801 the British and Irish Parliaments were united. Heavy bribery of Scottish and Irish M.P.s was necessary to secure the passage of these Acts. The willingness of the English to treat the Scots as equal partners has preserved the Parliamentary union of Great Britain; but the neglect and mis-government of Ireland led to a vigorous Home Rule movement, and after many years of conflict and tragedy the Irish Free State<sup>1</sup> was established as a Dominion with a Parliament of its own, in 1923. The six counties of Northern Ireland, not included in the Free State, have also a separate Parliament, but it is subject to that at Westminster.

The Parliament of the United Kingdom in 1801 was supreme, but it by no means represented the people. Boroughs which had, centuries before, been given the right of sending two Members to Parliament, continued to do so even if they were well-nigh depopulated and the Members no more than the nominees of a landlord; large and growing towns, the products of the Industrial Revolution, were unrepresented; the fact that there was no secret ballot opened the door to bribery and intimidation. The qualifications for a voter were various and confusing and the result was a Parliament in which the trading and manufacturing middle-class was under-represented and working class not represented at all. The unfitness of such an assembly to govern 19th century Britain nearly led to revolution, but a series of Reform Acts improved the position. The Great Reform Act of

<sup>1</sup> Now known as Eire. See Ch. XXII.

1832 raised the number of voters from 500,000 to 1,000,000, benefiting chiefly the upper middle class; Acts of 1867 and 1884 gave the vote to some of the town and countryside workers respectively. The Representation of the People Act, 1918, gave the vote to nearly all men over 21, and to the great majority of women over 30. The process was completed in 1928 when women were given the vote on the same terms as men. Thus has Parliament grown from an enlarged feudal assembly into a democratic institution representing 30,000,000 adults. Developed in the 14th century, uncertain of its existence in the 15th, tutored in the 16th, struggling for mastery in the 17th, supreme in the 18th, democratised in the 19th, it has reflected at every stage the growth and conflict of classes. Just as recognition of its Sovereignty is essential to an understanding of the Constitution, so an acquaintance with its development will explain the history of England.

#### RELATIONS BETWEEN THE TWO HOUSES.

From the time when the two Houses began to sit apart they had, in law, equal powers. At an early date, however, it was recognised that the Commons should have chief power over finance, and from this it followed that they became the more important House. A serious conflict between the Houses occurred over the 1832 Reform Bill, and later in the century Mr. Gladstone's Governments had difficulties with the Lords. The legal equality of the two continued until 1909, when the Lords, standing on their legal right, rejected certain taxes which Mr. Lloyd George, as Chancellor of the Exchequer in a Liberal Government, had proposed. At a General Election in January, 1910, the Government were victorious; the Lords accepted the taxes, but the Government, determined to prevent such difficulties in future, introduced a Bill to limit the Lords' powers. Another Election, held in December 1910, and a threat to "swamp" the Lords<sup>1</sup> were necessary before this Bill was passed, to become

<sup>1</sup> See Ch. II.

the Parliament Act 1911. Its provisions are as follows:—

1. Any Bill dealing with taxes, borrowing of money, or similar matters, and certified by the Speaker of the House of Commons as a "Money Bill" can become law one month after the Commons have passed it, whatever the Lords may have done.

2. Any other Public<sup>1</sup> Bill, except one whose object is to extend the life of Parliament beyond five years, which is passed by the Commons and rejected by the Lords, can be passed again by the Commons in the next Session; if it is rejected a second time, and then passed by the Commons a third time in yet another Session, it becomes law despite the Lords' opposition. The whole process must take at least two years.

3. The maximum lifetime of a Parliament is fixed at five years instead of the seven which had been required by law since 1716.

This Act made the Commons supreme, but left much power to the Lords. They could not bring the Government down by the simple process of refusing money, nor could they delay anything for more than two years. But many Acts lose much of their usefulness if they are thus delayed, and a Government which had to deal with a sudden emergency, such as a financial panic, or a dangerous turn in international affairs, would be in great difficulty if the Lords were determined to oppose it. The Lords can also amend a Bill and so compel the Commons either to accept amendments which they dislike or sacrifice the whole Bill for two years. The Labour Government of 1929-31 was thus obliged to accept amendments in many of its Acts, particularly the Coal Mines Act, 1930. In 1932 the power of the courts to order birching for boy offenders was preserved by a Lords' amendment on which they insisted, to the annoyance both of the Government then in power, and the Commons. Finally, a House of Lords which was determined to hamper a Government could block all its Bills for the first two years and so wreck its plan of work. It is necessary to examine how the powers of the Lords

<sup>1</sup> For explanation of this term see Ch. X.

are used in practice, and the general desirability of having two Houses.

#### THE HOUSE OF LORDS.

The Lords of Parliament—i.e., persons entitled to sit in the House of Lords—can be classified as follows:—(1) The Lords Spiritual:—the two Archbishops, the Bishops of London, Winchester and Durham, and twenty-one other Bishops in order of seniority. These hold their seats only as long as they are Bishops, and the right to sit is not hereditary. (2) The Lords Temporal. (a) Princes of the Royal Blood; these are few in number and take no part in the work of the House. (b) English Peers and Peers of the United Kingdom, totalling about 700. Their right to sit is hereditary, but if, in the absence of male heirs, a woman succeeds to a Peerage, she is not entitled to sit. Peers who are under 21, or mentally incapable, are also excluded. The Peers are divided into Dukes, Marquises, Earls, Viscounts and Barons, in order of precedence, but this is only a ceremonial distinction. When a new Peer takes his seat, he is usually led up the floor of the House by two Peers of the same rank; but all, irrespective of rank, can take an equal share in the work. (c) Sixteen Representative Peers, elected at the beginning of each Parliament by the holders of Scottish Peerages, i.e., those created for the Kingdom of Scotland alone, before the 1707 Act of Union. (d) Twenty-eight Representative Peers who have been elected for life by the holders of Irish Peerages. Since most of Ireland is now outside the United Kingdom, there will be no further elections to fill vacancies caused by death, so that this group of Peers will in time vanish. (e) Not more than seven Lords of Appeal in Ordinary, usually called Law Lords. These are distinguished lawyers who have been made Barons for life—the only example of non-hereditary Peerage—so that they may sit in the House of Lords and enable it to perform its duties as a law court.

The earliest Peers were all great landowners; later it became usual to confer Peerages on men whose wealth came from

commerce or industry. Men who have distinguished themselves in the fighting services, colonial administration, or learned professions are sometimes made Peers, and ex-Cabinet Ministers frequently retire to the Lords when they feel themselves too old for the strenuous life of the Commons. So the House of Lords is a large mass of property owners, many of whom are not greatly concerned over politics, seasoned with groups of men of exceptional talent and experience.

It is not surprising to find that the great majority of the Lords do not attend the House at all; usually there are less than fifty members present. The sittings of the House are neither as frequent nor as long as those of the Commons. The Lord Chancellor presides, sitting on the Woolsack, but he does not enjoy the authority of a Speaker of the Commons; the Lords do not address their speeches to him, but to "My Lords", and the small size of the audience makes strict rules of debate unnecessary.

Even on ordinary occasions there is a substantial Conservative majority, and, if necessary, a sufficient number of "backwoodsmen" can be induced to attend to ensure a Conservative victory. To non-Conservatives, then, the House of Lords is a natural enemy; to Conservatives it is unsatisfactory because its unrepresentative character might at some time provoke a strong wave of radical feeling. Why, then, does it persist? Chiefly, because if it were abolished, two questions would arise: Is there to be, in future, one House or two? If the latter, what is the Reformed Upper House to be? No Government will tackle these questions unless it finds the Lords an intolerable nuisance, and enjoys the certain support of the people; and there has not been any Government since the War which fulfilled both these conditions.

#### ONE HOUSE OR TWO?

The arguments for a "bi-cameral" system of Government can be stated thus:—(1) The Second Chamber can revise the Bills passed by the First, to see that their language is clear and that they do not contain unperceived dangers. To do such work



properly, the Second Chamber would have to be a small body of people with legal knowledge and political experience, and the majority of its members should hold the same political opinions as the majority in the First Chamber; otherwise they would not try to improve the drafting of Bills, but to defeat their purpose. The present House of Lords is therefore unsuitable.

(2) A Second Chamber whose members do not have to be elected can deal with problems which cut across party divisions and which ordinary politicians fear to touch, lest they should lose votes. The 1937 Marriage Act was an outstanding example. Every Member of the Commons had to say to himself "There are many voters in my constituency who always vote against me because they sympathise with another party; if I favour a change in the marriage laws I shall offend some of my regular supporters and so add to the hostile vote; nor can I be sure that those who want the change will come over to my side if their usual party allegiance is elsewhere. I may be told that I ought to vote for what I think right, and take the consequences; but I do not think it right to risk losing a seat to the opposing party, whose principles I believe to be wrong and dangerous". This did not mean, of course, that the Commons were tongue-tied on the Marriage Bill; but they showed excessive caution. In the Lords a debate of high quality was held, to which men with legal and medical experience made valuable contributions. The Bill was altered so that it probably came nearer to the wishes of the people; and, with the trail thus blazed, the Commons were willing to follow, and accepted the Lords' amendments. A reasonable case may be made, therefore, for a Second Chamber composed entirely of persons chosen for their experience, the hereditary principle being abandoned. Yet freedom from anxiety about the opinions of voters will not always lead to wise and courageous action; the Chamber might be tempted to act simply in its own interest, because it would not have to consider that of others.

(3) The Second Chamber can act as a check on the First; if the latter disregards the wishes of the people. When a year or more

has passed since the First Chamber was elected, it may no longer be truly representative; or the majority party, having been elected on one issue, may snatch the opportunity to make great changes about which the people have not been consulted. Cannot the Second Chamber be given power to prevent such action, at least until another Election has been held? This is clearly shown to be the purpose of the Parliament Act, when the two years' delaying power and the limitation of the life of Parliament to five years, are considered together. A Government with a majority in the Commons can, at the worst, get through those measures which it introduces in the first three years; after that the Lords can postpone anything they dislike till after the next election. But the ideal of a Second Chamber which will use its checking power solely to keep the First Chamber in line with the popular will, is not realised in the House of Lords. This was recognised in the Parliament Act; the Preamble states that "it is intended to substitute for the House of Lords as it at present exists a Second Chamber constituted on a popular instead of a hereditary basis": but the intention has never been carried out. How could such a Chamber be made? If all its members are to be elected on the same plan as those of the First Chamber, its views will be the same and there will be no check. Could they be elected on a different plan? Various proposals have been made. The Second Chamber might be elected on a "functional" basis; that is to say, the Trade Unions, the learned professions, and other bodies of citizens grouped according to the work they do, might elect representatives from their own number. Would this give a better expression to the people's will? If so, why not simply one Chamber elected on this plan? The right to vote for the Second Chamber might be limited to those, say, over 30; or to those who had attained a certain standard of education. Then the Second Chamber, being less representative than the First, could hardly claim to act as a check.

It may further be questioned whether there is any need to impose a check on the First Chamber. The chief weakness of

democratic Governments to-day is not that they take action too rapidly, but that they do not take it rapidly enough. If democratically elected assemblies think of legislating against the popular will, there is always one powerful check—the thought of what will happen at the next election. No doubt, if the House of Lords were abolished the Commons could, in law, prolong their own life indefinitely and become a dictatorial Government. This, as has already been shown, would be unconstitutional; should a majority party intend to do any such thing it would not be deterred by the legal obstacle of a Second Chamber; it would no longer be thinking of legality and votes but of military strength and a *coup d'état*.

These traditional arguments for a Second Chamber lack force because they ignore realities. They suppose the State to be a collection of people all desirous of discovering the best scientific principles of Government. In fact, there is, within States, conflict between some advocating one change in the order of society, some another, and some no change at all. In a democratic State the conflict is resolved by periodic appeals to the will of the people. The effect of Second Chambers, in the real world, is to make certain kinds of change more difficult. They have been created or preserved in order to protect particular interests, not because political philosophers demonstrated the superiority of bicameral Government. The special interests of the House of Lords have been examined; the Senate in France gives special weight to the opinions of the rural districts. When the First Chamber itself favours the protected interest, the Second Chamber is its echo; when this does not happen, Government is hampered by conflict between the Chambers.

The problem takes a special form in Federal States where the Second Chamber usually has the task of preserving the rights of the various members of the Federation. The Congress of the U.S.A. is composed of Two Houses. To the House of Representatives each State in the Union sends a number of Congressmen varying with its population; but to the Senate

each State, large or small, sends two Senators. Friction between the two Houses is not uncommon, but this is only an example of the problems of Federalism. The separate States were not willing to fuse into a single unitary State; nor was it to their advantage to remain completely independent. Federation, despite its inherent difficulties, was the only way in which a great nation could be created. Switzerland, which is a Federation of Cantons, some of which have joined in comparatively recent times, also uses bicameral Government as an instrument of Federalism. The newest of all Constitutions, that of the U.S.S.R., likewise provides for two Chambers, in view of the variety of languages and ways of life in Soviet territory; the Council of Nationalities, like the United States Senate, gives representation to the smaller Republics and Provinces, out of proportion to their population.

#### REFORM.

For Great Britain, a practical problem remains. About one-third of the Bills which come before Parliament are started in the Lords<sup>1</sup>; so the mere abolition of that House would thrust more work on the already over-burdened Commons. Further, the argument for a revising Chamber, to see that Bills are well drafted, has not been fully answered. A small Second Chamber containing men appointed for their experience and competence, has been suggested. Alternatively, the members of the Second Chamber could be elected by the Commons, to do the work of revision and start those Bills which are not party measures. The Commons might select some of their own Members, and add to them persons fitted for the work but less fitted to fight elections. The Second Chamber would then be of moderate size and of the same political complexion as the Commons; all its members would be active and it would be to the interest of the parties to see that they were competent. The two Chambers would not be rival authorities but partners, sharing the work

<sup>1</sup> See Ch. X.

of legislation in accordance with the principle of division of labour.

If at any future time a Government wished to adopt this, or any other solution of the Second Chamber problem, an Act of Parliament would have to be carried through both Houses. If the Lords proved reluctant, two methods of overcoming their opposition would be available. The first is the threat or actual practice of "swamping". This has the advantage of speed, but the drawback that it may appear high-handed. The consent of the King would be necessary, and, if he were reluctant, the Government would face a double constitutional crisis which it could only survive if it had overwhelming support from the country. The second is to use the Parliament Act and carry the proposed reform after two years' delay. This would be less likely to provoke crisis, but would hamper the Government during the two years; for the Lords would probably retaliate by being as obstructive as possible. Any other reforms the Government proposed would have to wait; the electorate would certainly be indignant, though it is uncertain whether their indignation would be turned on the Lords or on the Government which, for the time, could do nothing for them.

#### CONCLUSION.

This, then, is the net effect of the House of Lords on the British Constitution.<sup>1</sup> It slows down the process of legislation; it gives the landed aristocracy and the wealthy, influence out of proportion to their numbers; it occasionally produces discussions and amendments in which the special talents of experienced men have good effect. A Government which has only a small majority in the Commons and lacks solid support in the country cannot hope to challenge the Lords with success. For all this, the Lords are not an invincible barrier to democracy. If the people are determined on a policy and give their vote

<sup>1</sup> The work of the House of Lords as a law court, being entirely distinct from its work as part of the Legislature, is reserved for consideration in Ch. XV.

and continued support to a Government which will carry it out, they will prevail. So the frequent use of the word "Parliament" when what is meant is the House of Commons, is natural, though technically incorrect; for in the last resort power rests with the Commons, and it is through them that the people control the Legislature.

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## CHAPTER X

# THE WORK OF PARLIAMENT

Calendar and Time-Table  
Debates and Votes  
The Building  
From Bills to Acts  
Efficiency

The House of Commons, as the most important part of Parliament, has four functions. First to make the law; second to watch and criticise the Government; third, to hold debates which will focus attention on politics and make clear to the people what are the questions which they will have to decide. The fourth, the control of the raising and spending of money, will need to be treated separately; the object of this chapter is to state how far the methods of work allow the first three functions to be satisfactorily performed.

### CALENDAR AND TIME-TABLE.

When, after a General Election, a new House of Commons assembles, its first task is to elect a Speaker. This official was originally the man who "spoke" to the King in Parliament about the wishes and doings of the Commons, and was regarded by them, with some suspicion, as a "King's man". To-day his election has to be approved by the King, but this is only a formality. He has become the champion of the Commons' privileges and his chief duty is to preside at their debates. Although he is usually, until his election, a member of one of the parties, he must sever his party connection and act impartially, and he should be a man in whose fairness all parties can have confidence. The majority party could elect whom

they please, but it is understood that they will choose someone who is also acceptable to the minority. The modern practice is to re-elect the same person as Speaker in successive Parliaments until he retires, when he is given a pension of £4,000 a year, and is created a Peer if he so desires. The present Speaker is Captain Fitzroy, the Member for Daventry. At the 1935 Election he was opposed by a Labour candidate, and this caused some dispute. On the one hand it was urged that since a man who would presumably be re-elected Speaker was not expected to fight a party campaign, he ought not to be attacked; on the other, that there were electors in Daventry who wished to vote for another party, and had the right to do so.

If the Speaker's powers of controlling debate in the Commons and his power, under the Parliament Act, to certify Money Bills, are considered together, the importance and prestige of his office will be recognised.

The Speaker once elected, all Members take the Oath of Allegiance to the Crown, and sign the Roll; not until this is done are they fully M.P.'s. In the last century fierce objection was raised to the taking of the Oath, which contains the name of God, by an avowed atheist, Charles Bradlaugh, one of the Members for Northampton. The Commons declared his election to be void; the people of Northampton replied by re-electing him, and the matter was solved by allowing Members, if they wished, to make an Affirmation instead of taking the Oath.

The lifetime of Parliament is divided into Sessions, each of which usually lasts a year, beginning in November. The Session opens with the King's Speech, which is read in the House of Lords, either by the King or the Lord Chancellor on behalf of Lords Commissioners given authority by the King. An official called Black Rod goes to summon the Commons to hear it; seeing him approach the attendants close the doors; Black Rod knocks and asks for permission to enter, which the Speaker grants. This formality is a reminder that neither the King nor his messengers can enter the Commons' House without their



permission; it would prevent any attempt to imitate Charles I's entry into the House with an armed force seeking to arrest five Members. The King's Speech is the work of his Ministers and contains a statement of the work they propose for the coming Session. It is addressed to "My Lords and Members of the House of Commons", except for a paragraph addressed to the Commons alone, stating "Estimates for the public services will be laid before you"; thus the sole authority of the Commons over money is recognised. The Commons then return to their own House, and an Address, expressing thanks to the King for the Speech, is debated. Members of the Opposition try to add to this Address expressions of regret that certain items find no place in the Speech, or that the Government has not the confidence of the House. After the Election of 1923 the Conservative Government found that its supporters were the largest party in the House, but had not a clear majority. The Labour Opposition moved an amendment in the Debate on the Address, to the effect that the Government lacked the confidence of the Commons; the Liberal Party, by supporting this amendment, brought about the defeat and resignation of the Government.

So far from five to eight days will have been used; no law-making has been done but the time has not been wasted. The Debate on the Address has given the public an idea of what the new Parliament is like, and what subjects it thinks important. The opening formalities seem no more than historical survivals; but if at any future time the liberties of the Commons should be in danger, these formalities would provide the occasion for protest and action. The House continues its sittings till it adjourns for the Christmas Recess; re-assembles in January and continues, with similar adjournments at Easter and Whitsuntide till July, when the Summer Recess begins. This lasts till November, when the House re-assembles for a few days before the Session is brought to an end by the King's proroguing Parliament; the next Session starts shortly afterwards. The Houses of Commons and Lords are prorogued together, but each can

decide for itself when it will adjourn. As the Commons are only adjourned, and not prorogued, during the long Summer Recess, they can be summoned in emergency without formalities.

Every day, from Monday to Thursday, the House begins to sit at 2.45 p.m. Prayers are read, and there is then an opportunity to present petitions. When only a small minority of the people had votes, petitions served the useful purpose of keeping the House in touch with the wishes of those who could not influence it at elections; to-day there are few petitions and they have little effect. Members then rise to ask Questions of Ministers. Two days' notice has been given, and the Questions are printed on the Order Paper which every Member has. On urgent matters, the Speaker may allow Questions, even if notice has only been given to him by noon that day. The Questions range over all topics: What comment has the Foreign Secretary to make on a recent speech made by Hitler? Why cannot So-and-So, who lives in a remote part of Scotland, get a telephone installed? When the Minister has replied he may be assailed by Supplementary Questions as Members rise and say "Arising out of that reply, may I ask. . . ." Skill in answering Questions is one of the qualities expected of a Minister, and if Members think they are not receiving proper consideration, there will be much excitement. Ingenious Members attempt to make short speeches in the form of Questions but are usually checked by the Speaker. If a Member is dissatisfied, he may move that the House adjourn in order to discuss a definite matter of "urgent public importance". The Speaker usually refuses to put this motion, but will do so if the matter in question is such as is defined by the Standing Orders of the House. Should the motion be allowed to be put, the Member's grievance can be discussed in full later in the day, and the Government will have to satisfy the House that proper action will be taken. When private persons have suffered an injury at the hands of an agent of the Government, their rights can be safeguarded in this manner. Question Time is thus valuable as a safeguard for individual liberty; it helps also

to show how far each Minister understands his Department; it brings to light information which could not be obtained by anyone but the officials of a Government Department; it clears up doubtful points about the Government's policy. It is sometimes misused by Members who take a pride in the number of Questions they ask, under the mistaken impression that their constituents will regard this as proof of their zeal for public work.

Question Time ends at or before 3.45, and if there are any new Members, recently victorious at by-elections, they will be introduced at this point. The new Member is escorted up the floor of the House by two of his own party, while his supporters cheer and the other side remain silent or make audible comments about his political past or incidents in the by-election campaign. The House is now ready to begin the work of legislation and control of money which occupies two-thirds of its time. Every Thursday, in answer to a question from the Leader of the Opposition, the Prime Minister will state what business will be before the House in the next week. At intervals, days are granted, on the Opposition's request, for a debate, not on the provisions of a Bill, but on the Government's policy in some important matter; or it may be for a Vote of Censure on the Government, when its whole record can be discussed.

So the business proceeds until 11 p.m., unless, as sometimes happens, the House, at the request of the Government, has "suspended the 11 o'clock rule". At 11.30 p.m., however, the day's work is over, except when urgency of business or exceptionally fierce opposition prolong the sitting until the following morning or even afternoon.

On Fridays the House sits from 11 a.m. till 4 p.m., so that the week-end is free. This arrangement, made first to give Members leisure for private enjoyment, now gives the conscientious M.P. a chance to visit his constituency, keep in touch with his local party organisation, and address meetings; the "week-end platform" has thus become a feature of political life.

Some Fridays are set apart for Private Members' Bills, and

on some Wednesdays Private Members may introduce Resolutions; the latter are no part of the process of making law, but allow ideas to be discussed and the opinion of the House tested. After Christmas, however, the Government begins to use some Wednesdays for its own business, and after Easter no time is left for Resolutions or new Bills from Private Members, though the Bills already under discussion continue on their way. It will be seen that the time allowed for Private Members is slight and their difficulties will appear even more clearly when the process of turning a Bill into an Act has been examined.

#### DEBATES AND VOTES.

Members must address their speeches, not to one another, but to "Mr. Speaker". They must not refer to other Members by name, but as the "Honourable Member for Richmond", or whatever his constituency may be. These formalities, as anyone who has belonged to a large debating society will know, help to prevent the discussion becoming too heated and degenerating into a wrangle. Speeches must not be read—though a Member may use notes or quote from documents—and must be confined to the subject under discussion. Offensive expressions are forbidden and the natural rules of civilised debate must be observed. A Member who transgresses the regulations will be greeted with cries of "Order, Order!" from his fellows, and called to Order by the Speaker. Should a Member attempt to defy the Speaker, the latter will "name" the offender and the Prime Minister will move that he be suspended from the service of the House. If the House agrees, the Member will have to leave; in the last resort the officers of the House will be called on to remove him. Suspension lasts for a few days and is ended by an apology. In the years following 1877, when Parnell led the Irish Party, deliberate obstruction was common and forcible removal of Members occurred. The Standing Orders which govern the procedure of the House have since been altered;

Parnellite obstruction would no longer be effective and is not attempted, though there are occasional outbursts by indignant Members.

There is no time-limit for speeches, but the attitude of the House does not encourage long orations. A Member making his maiden speech is listened to with friendly interest, but the House soon makes up its mind whether a Member is worthy of attention. The rising of notoriously dull Members to speak is a signal for many to leave the Chamber, and it is not uncommon for Members to find that many of their audience are only there because they want to speak next. If the attendance is low, a count may be demanded: Members will be summoned from all parts of the building: if, even so, less than 40 appear, the House is "counted out" and business comes to an end. The Member who wishes to speak may intimate his desire to the party Whips who can raise the matter with the Speaker; or he may rise on the spur of the moment and trust to catching the Speaker's eye.

The lofty oratory and classical quotations of past centuries have vanished; for the House is no longer recruited from a single class, educated on a common pattern. While the good speeches of the past may be admired as works of art, those of to-day are distinguished by clarity and grasp of fact. Bad speeches, of course, are common enough as in all assemblies of human beings at all times and places. Exceptionally gifted orators such as Mr. Lloyd George can make a great impression, though here again the House expects the speech to contain fact and argument.

#### THE BUILDING.

The oblong Chamber in which this debating occurs is not large enough to hold more than two-thirds of the Members; but since an M.P.'s work is not confined to attending debates this is not inconvenient, except at the opening of the Session or on rare occasions when nearly all wish to be present; some of the galleries then accommodate the overflow. The Speaker's

chair is in the middle of one of the short sides of the Chamber; Government supporters sit on his right and the Opposition, facing them, on his left. The front bench on the Government side, called the Treasury bench, is occupied by Ministers, with their subordinates sitting close behind. The rows of benches are divided, half-way down the House, by a gangway, and Members who are not in agreement with the Government or with the official Opposition take seats below the gangway, on the far side from the Speaker's chair; thus in the present Parliament the Liberal Party sits below the gangway on the Opposition side. Apart from these rules, Members have no right to any particular seat; attendance at Prayers is stimulated by the fact that a Member may at that time reserve a seat for the rest of the day. Some of the older and better-known Members are always allowed to take their customary place. In front of the Speaker's chair is a table for the Clerks of the House; on it are the Mace and some official documents, and dispatch boxes. Above the chair is a gallery for the compilers of Hansard, the official verbatim report of Debates, and for the Press.<sup>1</sup> Opposite the Press gallery is one for "Distinguished Strangers" such as Peers or foreign Ambassadors. There is also room in the galleries for a limited number of the general public; Members ballot for tickets to give to their friends and constituents. The House has the right to clear the galleries and hold a Secret Session, as was done once or twice during the War.

The House of Lords is similar in arrangement to the Commons, but more gorgeous in appearance. The rest of the Palace of Westminster contains Committee Rooms, kitchens, dining and writing rooms and a notoriously inadequate library; there are also the older parts of the building—Westminster Hall, where William Wallace, Warren Hastings and Charles I were tried, St. Stephen's Chapel and the cellars used for the Gunpowder Plot. Flanking the debating Chambers of the Commons and Lords are

<sup>1</sup> The right of newspapers to publish accounts of the Debates was hotly contested and successfully maintained in the 18th century.

Division Lobbies. When a debate has ended the Speaker puts the question, asking those in favour to say "Aye" and those against "No"; he then announces "I think the Ayes (or Noes) have it", usually assuming the Government to be victorious. Frequently the Opposition, knowing themselves to be in a minority, let his decision stand; but if they wish they can shout "Divide", whereupon bells ring all over the building to summon Members to the Chamber; they then file into the Aye and No lobbies and are counted. The lists of those voting is published and helps the electors to judge how often their Member is at his post. The Whips elected by each party have the task of seeing that Members will be in the House when important divisions are expected; a Whip must therefore be well acquainted with the time-table and procedure. A Member who has an important engagement elsewhere may arrange with the Whips to find a Member of the opposite Party similarly placed, and "pair" with him—i.e., make an agreement that neither shall vote at that division.

#### FROM BILLS TO ACTS.

There are several kinds of Bill, the commonest being a *Public Bill*, i.e., one affecting the whole community. For such a Bill to become law it must go through the following stages:—*Drafting*. The Department of the Minister concerned consults with the Parliamentary Counsel's Office, which is the part of the Civil Service charged with putting the Government's policy into the proper legal form. This is difficult and technical work, and it appears that the office staff cannot at present deal with more than four Bills at once. As some Bills take months to prepare this is a serious drag on business. *First Reading*. Notice having been given to the House that the Bill is to be introduced, the Minister hands a copy of it to the Clerk of the House who reads the "Long Title" which states the nature and purpose of the Bill. The House agrees that the Bill may be brought in and a day is fixed for Second Reading. Little time has been spent and

this step is no more than an indication to the House when the main discussion will be held. *Second Reading.* This is a set debate on the general principles of the Bill. Thus, in the Second Reading Debate on the London Passenger Transport Bill, Members discussed the general desirability of bringing London Transport under the control of a single Board. The way in which the Board was to be appointed, the compensation of private transport companies, and all details were left for later consideration. The Second Reading Debate may last for two or three days, and at the end the motion "That the Bill be read a second time" is put. The Opposition may move as an amendment "That this House declines to give a Second Reading to a Bill which fails . . ." and so on, describing the Bill's shortcomings: or, "That the Bill be read a second time this day six months"—when the House will not be sitting; this is only a complicated way of opposing the motion. The Second Reading is clearly an essential stage; until there is agreement that a given Bill is wanted, there is no purpose in discussing details. *Financial Resolutions.* When the Bill is not a pure Money Bill but involves expenditure, as a large proportion of Government Bills do, the next step is for the House to "go into Committee". The Speaker leaves the chair; the Mace is put under the table; the Chairman of Committees presides and the discussion becomes comparatively informal. This "Committee of the Whole House" then considers a financial resolution authorising the spending of the necessary money. Later, when the House is sitting in its usual manner, the Committee report their decision. As the Committee of the Whole House, and the House, are the same people, this means that the point is examined all over again. These stages are a historical survival; in time past money was the chief source of disagreement between Kings and Parliaments and the latter felt they could discuss financial matters more freely when the Speaker was absent. To-day, the process might well be abandoned; it allows more speeches to be made without anything of substance being said that has not been said already in the Second Reading



Debate. *Committee*. When the Bill has been read a second time, it is referred to a Committee. For Bills of great importance, including all Money Bills, this will be a Committee of the Whole House; other Bills go to one of the Standing Committees. Four of these, named A, B, C, D, contain between fifty and eighty Members, the parties being in the same proportion as in the House; a fifth Committee is the Scottish, containing all the Members from Scotland and from ten to fifteen others. Members are appointed to Committees by the Committee of Selection which is set up at the beginning of each Session; it has eleven Members, six of whom are Government supporters. Committees meet in the morning, when the House is not sitting, or in the afternoon. The Scottish Committee takes all Bills relating only to Scotland; A, B, C, and D do not specialise in any one subject. However, only about two-thirds of a Committee's members are a permanent nucleus: to these twenty or so are added for each Bill, and remain with the Committee while that Bill is under consideration: so each Bill secures the attention of a certain number of specialists in its subject-matter. The Speaker appoints for each Committee a Chairman, under whose guidance the Committee examine the Bill clause by clause, sometimes consulting with the Minister who is in charge of it. The distinction between parties is not so sharp in Committee discussion as in debates in the House. There will be certain points on which the Government supporters will stand firm, but very considerable modifications are made as a result of Opposition pressure. The public often under-estimate the amount of work done by M.P.'s because they do not realise how much is done in Committee; most newspapers only report Committee work when a point of special news-value arises. The Private M.P. has, indeed, more opportunity of using his abilities in Committee than in the House, where much of the Debate is arranged by the Whips and the result is a foregone conclusion. It is probable that Committees could do their work more easily if they were smaller; this would permit an increase in the number of Committees,

so that more Bills could be considered at once. *Report.* The Bill, as amended by the Committee, is reported to the House who can now consider each clause and suggest further amendments. This ensures that the Bill, in its final form, represents the opinion of all Members and not only of the Committee. It sometimes happens that the Minister in charge of a Bill agrees with criticisms made in Committee but cannot immediately frame the necessary amendments; he has an opportunity to introduce them at the Report stage. *Third Reading.* This is a final debate on the Bill; it does not, as a rule, take much time, though Amendments can still be introduced.

“*Another Place*”.<sup>1</sup> It has been assumed throughout this description that the Bill starts in the Commons. In fact, a Bill may be introduced in either House, save that *Money Bills* must start in the Commons, and *Law Bills*, dealing with the intricacies of the legal system, usually start in the Lords. When a Bill has passed one House it must go through the same stages in the other. Consideration in the Lords is quicker; the Committee stage is usually handled by a Committee of the Whole House, though a small Standing Committee often revises the wording of Bills. If one House inserts amendments which the other dislikes, the Bill may go to and fro between the Houses twice or even more often; then perhaps one House will give way; or a conference of representatives of the two may be held, to reach a compromise; or the Bill may be dropped; or, if it is a Commons Bill, the help of the Parliament Act may be invoked.

*Royal Assent.* Once through both Houses, the Bill is sure to become law. If it is urgent it will be presented for the Royal Assent at once, but usually Bills are presented in batches at the end of a Session or before a holiday adjournment. The Assent is given, by Lords Commissioners holding a Commission authorising them to do so, in the Norman-French words *Le Roy le veult* (the King wishes it). The ceremony is held in the

<sup>1</sup> The phrase used by a person speaking in one House of Parliament and referring to the other.

House of Lords, the Speaker having been summoned thither; a number of Members of the Commons stand at the doors and watch, and, if the Bill has been hotly contested, shout their emotions as it becomes law.

A *Public Bill* may also be introduced by a Member holding no Government position; it is then called a *Private Member's Bill*. Should such a Bill involve expenditure, it cannot proceed beyond Second Reading, unless a financial resolution is moved by a Minister. If this rule were not kept, every Member would be tempted to bring forward Bills which would cause money to be spent in his own constituency, and the House would be the scene of a continual scramble for public funds. The Private Member must draft his Bill himself, or employ an expert; then he may try to introduce it by joining in the Ballot for time on a Friday. He may learn that his Bill is to be say, the second on the Order Paper for a Friday early in the Session—only to find that the first Bill on the Paper provokes so long a debate that there is no time for his own, or that the House, bored by the earlier Bill, is counted out. Alternatively, the Private Member may introduce his Bill on another day at 3.45, under the Ten Minutes' Rule: he makes a short speech in its favour and another short speech is made against. If the House agrees, the Bill can go forward for Second Reading. But the pressure of Government business, which takes at least three-quarters of the available time, makes it impossible that a Private Member's Bill will become law unless it is unopposed, or the Government sees that there is a strong feeling in its favour, and makes room in the time-table. Here lie two serious defects of Commons procedure: the Private Member feels that he has little scope for expressing his own ideas; and much of the time that Private Members do have is wasted discussing Bills which have no chance of becoming law.

The House has also to consider many *Private Bills*, the usual purpose of which is to allow some Company or Local Authority to proceed with a building, or railway, or works of some kind

which will interfere with the property rights of private persons. The Promoters of the Bill must have it handed to the Private Bills Office of the Commons, or to the Clerk of Parliament for the Lords; an examination is there made, to see that the Bill is in the proper form. It then proceeds as far as Second Reading with little debate, though it may be opposed. If so, it goes to a Private Bills Committee of four Members of the Commons (or five Lords). Procedure there is more like that of a law court than of an ordinary Committee. If the Committee disapprove, that is the end of the Bill; if they approve, it is almost certain to go through the remaining stages quickly and become law. When there has been no opposition at the Second Reading, the Bill goes to the Unopposed Committee, of five Members, presided over by the Chairman of Committees. Provided the Bill introduces no important new principle into the law, its passage is assured. Private Bill procedure gets a great deal of work done without taking up the time of the Whole House, and yet enables Parliament to see that injustice is not done to individuals.

Instead of promoting a Private Bill, the Company or Local Authority may in some cases obtain an Order from a Government Department allowing them to proceed. Such an Order is called "Provisional" because it cannot be acted upon until it has received Parliament's approval. This is given by the passing of a *Provisional Order Confirmation Bill*, which is generally unopposed, as the Department is not likely to make an Order to which Parliament would object. If there is opposition, the Bill goes to a Select Committee, but the chances of its being defeated are negligible. Thus the task of protecting the individual from injustice is shifted to a Department, but Parliament still preserves the possibility of appeal to its own authority.

#### EFFICIENCY.

This completes the account of how the various kinds of Bill become law; and the reader, noticing the length and complexity

of the process, may marvel that any laws are made at all. Yet they are made, by the hundred, every Session, and this becomes easier to understand when the methods of "applying the Closure"—i.e., bringing a debate to an end—are studied. The simplest form of Closure is for a Member to rise and move that the question be now put. If the Speaker approves, he may allow the House to vote on this motion; if it is carried and at least 100 Members are voting for it, the debate ends and a vote is taken on the matter under discussion. When the Government have a long Bill going to its Committee stage, they may, by a majority vote of the House, impose a time-table which requires that at a fixed time the vote shall be taken on, say, all Clauses up to Clause 20; at another fixed time, on all Clauses up to Clause 40, and so on. This "Guillotine" enables the Government to know in advance when a Bill will be finished; but it restricts debate, and the Government's proposal to use it may be vigorously, though unsuccessfully contested by the minority. When the Guillotine is used, the House may take so long discussing Clause 1 that they have to vote on Clauses 2 to 20 without any discussion. Speed and concentration on what is most important may be combined if the House permit the drastic "Kangaroo" to be used; the Speaker or Chairman may then pick out from a mass of amendments those which he thinks most suitable for debate; the remainder are ignored.

Only a Government which possesses a clear majority can be sure of getting permission to use these methods; but a resolute use of them makes it possible to pass a Bill through all its stages in a few days, or, by suspending Standing Orders, as little as half an hour. If a great emergency arose—war, or widespread disorder due to economic distress—the Government could quickly use its majority to pass laws giving it all the necessary powers, in addition to those it possesses under the Emergency Powers Act, 1920. A Government which lacked the people's confidence would, no doubt, hesitate before attempting to steam-roller Parliamentary opposition; but there is nothing

in the procedure of Parliament to prevent a Government which truly represents the people's will from carrying that will into effect.

But, though the procedure is far from futile, neither is it perfect. In the main, rules date from a time when Parliament felt that its chief duty was to check the power of the Crown; they are more adapted to saying "No" than "Yes". Since then, not only has Parliament acquired the positive duty of governing the country, but the activity of Government has enormously increased. On to the first structure have been tacked the Guillotine and the Kangaroo which make great speed possible. The result is that Parliament either acts slowly, or, by speeding up, distorts or strangles debate. One of the chief objects of reform should therefore be to frame methods of shortening debate which would not destroy discussion on important parts of a Bill. Some speeches are unnecessarily long: but this is not common and the imposition of a time-limit would not have much effect. A useful reform would be to remove, from consideration by the whole House at the Report stage, all those amendments which are concerned solely with the wording of a Bill, and hand them to a special Committee, containing both M.P.s and legal experts. Members could then concentrate on what the Act says rather than how it says it. Objection might be raised that the House would thus hand over too much of its authority to a group of experts. At present, however, the attempt to do too much obliges the House to pass blocks of undiscussed legislation in a manner sufficiently dangerous to its authority. Parliament must also go still further along the path of granting Ministers power to make Orders; Acts would then deal more with general principles and become easier to discuss. This could be done more safely if each of the Standing Committees were concerned with a particular Department and were alert to watch any excessive growth in the power of the Executive. If, to these suggestions, are added those already made:—abolition of the Financial Resolution, reduction in the size and increase in the

number of Committees, and reform of the Second Chamber, then Parliament might be better fitted to perform its work as a Legislature, a critic of the Government in the people's interest, and a forum for debate.

Reform on these lines would remove some of the grievances of the Private Member. The saving of time would increase the chance of success—or, at least, fair discussion—for Private Members' Bills. The authority and efficiency of Committees would be increased, and it is there that the Private Member does his best work. It might also be an improvement to decide the selection and order of Private Members' Bills through an all-party Committee rather than by Ballot. The present method, however, does give a Member the chance of raising a special problem, the importance of which he alone has realised; so it helps to preserve the individuality of Members and prevent business from being organised too rigidly on party lines. Already, the party system has made its influence felt. The Labour Party—and more recently the other parties—have adopted the practice of keeping in readiness a store of Bills embodying points in party policy. So Members will often take part in the Ballot in order to introduce one of these Bills, rather than one in which they have a definitely personal interest.

The ordinary citizen has here a task to perform. If M.P.'s realise that their constituents know the general outline of Parliamentary procedure, and will not be impressed by the ceaseless asking of questions, or the promotion of high-sounding but useless Bills, then there will be greater enthusiasm for the more laborious work of Committees. When Parliament does find time to reform its procedure and re-draft its Standing Orders, this point should be remembered, and every effort made to clear away out-of-date forms and phrases, and attain the maximum of simplicity. Even if this were done, the procedure would still be complicated enough; the method of Government of a great State cannot, any more than the working of an engine, be at once apparent to a casual observer. But, to pursue this example,

few can become fully qualified engineers, yet many possess a useful general acquaintance with the working of a motor-car. Not everyone can or need be a legal and Parliamentary expert; but the ordinary citizen can, if he wishes, acquire sufficient knowledge to make a shrewd judgment of his M.P.'s usefulness. This is but one aspect of a great problem; how to raise general knowledge in politics to the standard which it attains in other fields.

BOOKS:

- \*JENNINGS. *Parliamentary Reform* (New Fabian Research Bureau.)  
ILBERT. *Parliament*.



## CHAPTER XI

# THE CONTROL OF MONEY

Supremacy of Parliament  
Estimates  
The Budget  
Economy  
Debt

### SUPREMACY OF PARLIAMENT.

Parliament maintains its supremacy over the Government by a jealous watch over money. In previous centuries the Crown has tried many methods of getting money without Parliament's consent; it drew revenue from its property; it borrowed; it revived forgotten laws and imposed heavy fines on those who had unwittingly broken them; it sold special privileges to individuals; it tried to compel the payment of taxes which Parliament had not approved. Charles I's attempt to use this last method, by requiring ship money from those not legally obliged to pay it, was one of the incidents leading to the Civil War. Most of the other expedients have now been declared illegal, beyond doubt, and the Crown's property, to-day, provides only a tiny fraction of the money needed for Government. The first object of Parliament's rules about money is, therefore, political; but they have also the economic object of preventing waste. Parliament seeks, first, to ensure that the Government shall not get any money without Parliament's consent: secondly, to control the spending of that money, partly for the sake of economy, and partly to see that the Government, having got money for one object does not defy Parliament by spending it on something else: thirdly, to enable the Government to carry on its work; the control by Parliament must not be so rigid that the Government is helpless.

All the money collected forms the Consolidated Fund; out of this the law allows certain payments, called Consolidated Fund charges, to be made regularly, without repeated consent from Parliament. For other payments, Parliament must give authority every year, by passing an Appropriation Act. The most noteworthy of the Consolidated Fund charges are the interest and other expenses connected with the National Debt, the Civil List and the salaries of the more important Judges. Thus people who lend money to the Government can feel sure that their interest will not suddenly cease because of a refusal by Parliament to grant it; and judges can feel themselves independent of the majority in Parliament. Parliament could alter this arrangement by passing a new law; but as matters now stand, if Parliament wishes to stop the Consolidated Fund charges it must take positive action; to stop other payments it need only refrain from passing the next Appropriation Act. Taxation is divided on the same plan as expenditure; Death Duties and indirect taxation continue without yearly approval; the collection of Income Tax is made lawful from year to year by a Finance Act.

#### ESTIMATES.

Money must be raised before it can be spent; yet the total to be spent must be settled before the raising can be discussed. So Parliament's first financial task is to discuss the Estimates which each Department has made of the money it will require. From October till the end of the year the Departments are in consultation with the Treasury, to whom the Estimates are finally sent. The Departments have to consider how much they spent last year and how far changes of Government policy and natural factors, such as growth of population, will affect the figures for this year. In February it is moved in the House of Commons that the Speaker leave the Chair so that the House can become "Committee of Supply". This gives rise to four debates, on the Civil, Navy, Army, and Air Force Estimates respectively. Private Members have here an oppor-

tunity for raising a variety of points connected with the Estimates that are to be discussed. After this general and rather haphazard discussion, the Committee considers the details of Estimates in order. As has been shown, no one may propose that more money shall be spent than the Government has requested: if a Member thinks that a Service is being starved, he can move that the salary of the Minister be reduced; if the motion were carried it would amount to a vote of no confidence in the Government. As each "Vote," i.e., item in the Estimates, is discussed, the disagreements between Government and Opposition are made clear; indeed, the whole effect of the Committee on Supply is to debate the merits of the Government. This is extremely useful; the Government is obliged to explain its policy in every branch of its work, and the attention of the public is drawn to the chief political questions of the day. But the Committee ceases to be a body which considers whether the Government is careful with money; the question at issue is always, "Is this a proper object on which to spend money?", not "Could this object be attained at less cost?" In 1936 and 1937 the Labour Opposition was faced with a problem about the Estimates for the Armed Forces. The Labour Party was of opinion that if it were in power it would itself, have to propose large armament expenditure; could it, then, reasonably oppose the Estimates? Could it, on the other hand, vote for them, and so seem to agree with the arming of a Government whose foreign policy it condemned? The decision was to criticise policy during the debate and abstain from voting at the end. The debate is, in fact, more important than the vote: the former allows opinions to be expressed; the result of the latter is determined by the Government's majority.

The Committee on Supply continues its sittings at intervals with the other work of the House, and will use twenty Parliamentary days to complete the Estimates. The work will not be finished by April 1st, the beginning of the next financial year, and after that date the Government will have no authority to

pend, though services must be maintained. The Committee on Supply therefore passes a "Vote on Account"—a grant of money to maintain the Government for a few months. Then another Committee of the Whole House—the Ways and Means Committee—proceeds to empower the Government to raise taxes and loans, and to draw from the Consolidated Fund. The decisions of this Committee are reported to the House and made law as a Consolidated Fund Act before April 1st; on the strength of this Act the Government can borrow what it needs for the time. The Committee on Supply then finishes the Estimates. Sometimes the Government finds that it will require more money than was first supposed, and a Supplementary Estimate is laid before the Committee. All the votes on the Estimates are assembled in the Appropriation Act which becomes law, under the usual Money Bill procedure, just before the Summer Recess; the Government's powers to borrow and spend are thus prolonged for the rest of the financial year.

#### THE BUDGET.

While the Committee on Supply does the bulk of its work between February and Easter, the third part of the Session is largely occupied by the Ways and Means Committee, to which, near the end of April, the Chancellor of the Exchequer makes his Budget Speech. This is the longest speech that Parliament hears, and lasts nearly two hours. The Chancellor first explains to the Committee the accounts of the year which has just ended, showing how the actual figures differ from the Estimates presented a year before. This forms a basis for general conclusions about the country's prosperity. If Income Tax has yielded more than was hoped, this is a sign that more work has been done and more wealth produced; if the consumption of taxed articles—beer, tea, amusements—has risen, not only does the Exchequer benefit, but there is evidence that the people have more money to spend. If the yield from taxation has been disappointing, the Chancellor endeavours to find some explanation not discredit-

able to the Government. Expenditure for the past year is likewise set out, and variations from the Estimates are explained. If there has been a deficit on the year's working, the Treasury will have met it by borrowing; if a surplus, it will be devoted to the repayment of debt, and the Chancellor's next step is to inform the Committee of the state of the National Debt. It is, of course, essential that deficits shall be small and of rare occurrence. If the Government were always meeting its regular expenditure by borrowing it would soon find unwillingness to lend; then it might be driven to the dangerous expedient of inflating, i.e., printing more paper money. This causes a sharp rise in prices, and, if pushed far enough, will make money worthless and ruin large numbers of people.<sup>1</sup> On the other hand, there is no need to have a surplus, since regular provision is made for repayment of debt, as part of the yearly expenditure. Just as an individual would be unwise to repay a debt quickly by economising at the expense of his health, so a Government must strike a balance between the need to make some repayment and the undesirability of excessive taxation. Perfect accounts, therefore, would balance to the last penny, but this cannot be attained in practice. Usually the accounts do not differ from the Estimates by more than one or two per cent., which speaks well for the judgment of the Treasury officials.

The Chancellor next reminds the Commons of the Estimates of expenditure for the coming year, which, as Committee on Supply, they have under review. He shows what would happen if all this were spent and no changes in taxation were made. There might be a surplus; or, if public expenditure has been rising, as it has for the last five or six years, there would be a deficit. Then comes the part of the Speech for which the whole country has been eagerly waiting; what reductions or increases in taxation are proposed? Until this moment the changes have

<sup>1</sup> During a slump, a Government might practise moderate inflation with beneficial results. This, however, is a complex economic problem which cannot here be properly discussed.

been known only to the Cabinet, and to those public servants who have assisted the Chancellor or had charge of the printing of the necessary papers. In 1936 a scandal occurred because some of the proposals were revealed in advance to private people who made money out of their knowledge. The event is without parallel in modern times; the swift inquiry into the facts and the ending of the political career of the Minister held to be responsible were proof of the high standard of morality in regard to public money. No Civil Servants were involved in the scandal.

Documents and financial tables are provided to make clear to M.P.s the more complicated parts of the speech; but even so they cannot discuss it properly at once. Leaders of the Opposition parties, ex-Chancellors of the Exchequer, and a few other Members make brief comments; the Resolutions having, under the Provisional Collection of Taxes Act, the force of law, are passed, and the House turns, for the time, to other business. In the days that follow, the Budget proposals are discussed in detail and finally become law as the Finance Act.

The Budget presented by Sir John Simon in April, 1938, was as follows:—

*Estimated Revenue for 1938-1939.*

Inland Revenue:—						£
Income Tax	.	.	.	.	.	341,250,000
Surtax	.	.	.	.	.	62,000,000
Estate Duties	.	.	.	.	.	88,000,000
Stamps	.	.	.	.	.	24,000,000
National Defence Contribution	.	.	.	.	.	20,000,000
Other Inland Revenue Duties	.	.	.	.	.	1,250,000
TOTAL INLAND REVENUE						536,500,000
Customs	.	.	.	.	.	227,950,000
Excise	.	.	.	.	.	116,150,000
TOTAL CUSTOMS AND EXCISE						344,100,000

*Estimated Revenue for 1938-1939.*

Motor Vehicle Duties . . . . .	£ 36,000,000
<b>TOTAL RECEIPTS FROM TAXES . . . . .</b>	<b>916,600,000</b>
Post Office Net Receipt . . . . .	8,670,000
Post Office Fund . . . . .	2,400,000
Crown Lands . . . . .	1,330,000
Receipts from Sundry Loans . . . . .	5,250,000
Miscellaneous . . . . .	10,500,000
<b>TOTAL REVENUE . . . . .</b>	<b>944,750,000</b>

Income Tax is paid by single persons earning more than £125 a year and childless married couples earning over £225; where the income is unearned the figures are £100 and £180. Income above this level is called Taxable Income, but from this further deductions are made, e.g., for children. On the first £135 of Taxable Income a little less than one-third of the standard rate of Income Tax is charged; beyond that the full rate, which is now 5s. 6d. in the £, applies. There are many complications in Income Tax law, but the final effect is that some five and a half million people pay the tax—that is, less than one-third of the total number of income receivers. Many of these pay only small sums; a childless married couple earning £250 a year pay less than 1% of their income; if they had £1,500 a year they would pay about 17% of it. Surtax falls on taxable incomes above £1,500, and millionaires with £50,000 a year will pay away more than 40% of it in direct taxation. Estate Duties (“Death Duties”) are charged when property changes hands owing to death, but only one-fifth of those who die leave sufficient property to be considered. A very rich man, by dying well before the end of the financial year, may make the difference between deficit and surplus to the Chancellor, so the Estimates for this tax are particularly liable to error. Stamp Duties fall on cheques and

other documents which require a stamp to make them legal; they give some indication of the volume of business being done in the country. The National Defence Contribution was first introduced in 1937: its purpose is to make businesses, whose profits are rising, contribute to the cost of armaments. Customs Duties are paid on imported articles, and Excise on goods and services produced at home. This indirect taxation falls on all classes, but naturally, makes a bigger proportionate hole in the pocket of the poorer man. If everyone paid direct taxes, the number of forms to be filled up and enquiries to be made would be enormous; and if all taxation were indirect, it would have to fall on a great many articles, so that the problems of collection and supervision would be formidable. The British system therefore aims at collecting large sums by direct taxation of the limited number of rich and middle-class people; the rest of the nation are drawn into the net by indirect taxation, the bulk of which comes from duties laid on a few articles of widespread consumption. So everyone becomes a taxpayer; indeed, a married man with three children, earning £100 a year, has to pay about one-ninth of his income, one earning £500 about one-fourteenth, and one earning £1,000 about one-sixth.

*Estimated Expenditure for 1938-1939.*

	£
Interest and Management of National Debt .	230,000,000
Other Consolidated Fund Services . .	12,100,000
<b>TOTAL CONSOLIDATED FUND SERVICES . .</b>	<b>242,100,000</b>
Supply Services :—	
Defence:—	
Army . . . . .	77,373,000
Navy . . . . .	83,810,000
Air Force . . . . .	72,976,000
Pensions for Armed Forces . . . .	19,089,000
<b>TOTAL DEFENCE . . . . .</b>	<b>253,248,000</b>



*Estimated Expenditure for 1938-1939.*

Civil:—	£
Central Government and Finance . . . . .	2,542,000
Foreign and Imperial. . . . .	10,270,000
Home Department, Law and Justice . . . . .	28,096,000
Education . . . . .	61,847,000
Health, Pensions, Unemployment . . . . .	172,331,000
Trade, Industry, Transport . . . . .	40,646,000
Works, Stationery, etc. . . . .	11,692,000
War Pensions, etc. . . . .	43,094,000
Grants to Local Authorities . . . . .	54,248,000
Margin for Supplementary Estimates . . . . .	10,000,000
Tax Collection . . . . .	<u>14,284,000</u>
TOTAL CIVIL . . . . .	<u>449,050,000</u>
TOTAL SUPPLY SERVICES . . . . .	702,298,000
TOTAL EXPENDITURE . . . . .	944,398,000

Comparison with the Revenue figures will show a small estimated surplus of £352,000.

The huge payment caused by the National Debt should be noticed. By far the greater part of it is required for interest, though in 1938-9 about £40,000,000 was available for repayment. Since both interest and repayment go to people in this country, the real burden of taxation is less than appears from the accounts. Expenditure on the Armed Forces has been increasing for some years, and to the Budget total must be added another £90,000,000 which is to be borrowed, just as £65,000,000 was borrowed for the same purpose in the previous year. This alarming tendency to strain national resources for armaments can be noticed in the Budgets of nearly every country in the world; it is the symptom of a serious defect in the Government of mankind. The Social Services have grown considerably since the War; they benefit chiefly the poorer section of the people and can be set against the indirect taxation falling on that section. The £14,000,000 spent on collecting taxes cannot be considered extravagant, since it is less than 2% of the total collected. That total, not far short of £900,000,000, is about one-fifth of the wealth produced in the United Kingdom each year.

## ECONOMY.

That Parliament, charged with controlling so large a sum, should be careful with it, is a truism. The word "economy", however, when applied to Government finance, has two distinct meanings. Economy is, in substance, the spending of money and resources in such a way that they will give the greatest possible satisfaction. If the question is put, "Would it be economical to cut down the public services and so reduce taxation?" the point really at issue is this:—Less money will be spent on something the Government provides; it may be armaments, schools, or Old Age Pensions; taxpayers, having to pay less, will spend more on the things that they, as individuals, like—say, books, amusements, or clothes. Fewer men and materials will be employed on making armaments or schools, and more on providing amusements or clothes. Will that be a better use of resources? Will it increase the welfare of the people as a whole? Will high taxes cause people to save less, and so dry up the flow of capital to industry? Will those who manage industry be less willing to take risks, because part of their profits will be taken by the State? It would certainly be uneconomical to abolish all expenditure on education, in order to reduce the Income Tax; it would equally be uneconomical to increase educational expenditure tenfold at the present time. But apart from these extreme examples, there can be no definite statement of fact about what is economical. The phrase "welfare of the nation as a whole" is vague; nations are composed of groups whose interests differ and conflict. When people discuss a proposal to increase Old Age Pensions by heavier taxes on the richer classes they will try to show that it will, or will not, mean a better use of the nation's resources; but they will be strongly influenced by the effect that the scheme is going to have on them. "Economy" in this sense is therefore a question in dispute between parties.

There remains a second meaning, more restricted and easier to define. Once it is settled that the State is to carry out a given total

of activity, it is to everyone's interest that this should be done without waste of money. There would be no sense in spending £28,000,000 on the "Home Department, Law and Justice", if the same results could be achieved for £20,000,000. A good financial system will contain provision for watching expenditure in the interests of this kind of economy.

Government Accounts come under the eye of the Comptroller and Auditor-General, who, like a judge, cannot be removed from office save at the request of both Houses of Parliament, and whose salary is a Consolidated Fund charge. As Comptroller he sees that all money collected goes into the Consolidated Fund, and that none goes out without the proper Parliamentary authorisation. As Auditor he examines all the Accounts to see that the money has only been spent in the ways which Parliament approves. It is clear that he is not concerned with economy, but with the supremacy of Parliament over expenditure. If a Minister wished to equip his Department with the most luxurious furniture and persuaded Parliament to approve the necessary Vote, the Comptroller-General, seeing the Parliamentary authority, would raise no objection. It is significant that the phrase "uncontrolled expenditure" which in everyday speech would mean extravagance, means in official language, expenditure which Parliament has not approved. The reports of the Comptroller-General come before the Public Accounts Committee, composed of fifteen M.P.'s. This Committee may criticise extravagance, but it also is chiefly concerned with keeping the Government under Parliamentary control. Since, however, the reports describe expenditure in great detail, serious waste is not likely to remain hidden.

The body really charged with the prevention of waste is the Estimates Committee, composed in the same way as that on Public Accounts. It examines in detail the record of one Department after another and presents annual reports. But the work is so great that the Committee rarely deals with more than one Department each year; nor does the House of Commons give sufficient time to consideration of its reports.

One conclusion is unavoidable. Parliament has concerned itself so much with preventing "uncontrolled" expenditure that it has neglected the prevention of waste. Yet public administration in Britain cannot be labelled extravagant; it compares favourably with that of most other countries. But it is questionable whether Treasury supervision of Estimates is sufficient check on the growth of small items of unnecessary expenditure; and these, if unremoved, make up in time a formidable total. In the middle of the 19th century Mr. Gladstone found an accumulation of waste and had to destroy it by instilling rigorous habits of economy into all who worked with him. This tradition has not yet died; but it was weakened by the War, when resources had to be provided quickly rather than economically, and by the great growth of public expenditure which has made details appear negligible. It might therefore be desirable for the Estimates Committee to be enlarged and divided into sub-Committees to consider separately and simultaneously those Departments which are the chief spenders. Its members would have to devote considerable time to their work and would need the help of experts other than those in Government Departments.

#### DEBT.

Frequent reference has been made to borrowing by the Government, and it will now be convenient to summarise the facts of the National Debt. There is, first, the short-term debt, totalling about £1,000,000,000. This is constantly being borrowed to meet everyday needs, and repaid as the receipts from taxes come in. The money is drawn partly from firms which "take up" Treasury Bills—i.e., lend the Government money for short periods—and largely from the Bank of England which makes what are known as Ways and Means Advances to the Government. The long-term debt has been incurred, for the most part, in time of war, and reaches the amazing total of £6,000,000,000. The £230,000,000 set aside each year, together with any

unexpected surplus may, besides paying interest, add to the Sinking Fund which the National Debt Commissioners control; but there is no prospect of any substantial reduction in the total for very many years. Increase of armaments will add another £400,000,000 and should Great Britain again enter a war the total would become so great that it would scarcely be possible to pay the annual interest. The plan of a Capital Levy, i.e., a special charge on people owning great wealth, to be used for debt repayment, was considered but rejected shortly after the last war. Finally, there is about £1,000,000,000 External Debt, owed to foreign countries, chiefly the U.S.A.; but in 1934 the Government decided to make no further payments on this account. The money, as Mr. Neville Chamberlain, then Chancellor of the Exchequer, explained, had been spent on materials long since destroyed in the War. This argument would apply equally to much of the Internal Debt, and the U.S. Government has never felt satisfied. Britain, however, was not being paid by her own debtors, and could not, therefore, be reasonably expected to pay the U.S.A. International Debts, however, only add one more complication to the economic difficulties of a world already troubled by all manner of restrictions on the normal course of trade, and no final agreement is likely to be reached except as part of a world programme of economic recovery.

Great as the Debt is, the interest is at present unfailingly paid, and those whose savings are in Government Stock feel that they have the safest possible investment. What assets has the Government to set against its Debt, and inspire this confidence? Chiefly, the facts that it is a stable Government with the right and the power to tax its subjects, and that those subjects produce enough wealth to bear the burden. Moreover, the examination of the economic and social activities of Government has revealed types of expenditure which add to the nation's wealth-producing power. As these activities grow, the Government becomes comparable not only to an individual who receives

and spends, but to a firm with assets and liabilities. Ten years ago some prominent members of the Liberal Party pointed out that the Budget treats in the same manner ordinary spending and spending which is really investment, so that the real financial position is obscure.<sup>1</sup> They recommended that the Commons should be given a statement of the nation's assets and liabilities, in addition to an ordinary income and expenditure account; and there is no doubt that this reform will one day have to be made. Meanwhile one economic activity has sprung up which gives the Government uncontrolled power over a large sum of money in a manner which would have startled previous centuries. In 1931 Britain went off the Gold Standard: that is to say, the £ was no longer worth a fixed amount of gold, and the number of francs, dollars and other foreign units for which it would exchange became uncertain. There was reason to fear that speculators would take advantage of the situation and aggravate the uncertainty. The Government formed an Exchange Equalisation Fund, to be used for the buying and selling of £'s and foreign currencies in such a manner as to keep the £'s value stable on the foreign exchange market. In such work secrecy is essential to success, and the Commons have therefore to take the Chancellor's word that a sum of, perhaps, £400,000,000 is being properly handled.

The Management of the National Debt and allied problems is highly technical and there is therefore close connection between the Chancellor and those persons and institutions whose work is the borrowing and lending of money. At the centre of these is the Bank of England. Strictly speaking, the Bank is a private institution possessing special privileges given it by successive Acts of Parliament. It has the sole right to issue notes in England; it keeps the Exchequer Account and makes Advances to the Government. Further, the advice of the Governor of the Bank and other prominent figures in the banking world, will carry great weight when the Government proposes to raise loans,

<sup>1</sup> See *Britain's Industrial Future*, Ch. XXIX.

to embark on any great expenditure, or make any notable change in financial policy. It has been noticed that economic factors play a part in determining the form of Government; that in discussing the Government of Great Britain the cleavage between those who own property and those who do not must be borne in mind. The banking system is one of the channels through which the former group may influence public policy.

BOOKS:

Report of Colwyn Committee on National Debt and Taxation,  
1927

ARMITAGE SMITH, *Principles and Methods of Taxation*

C. G. CLARK, *National Income and Outlay* (Ch. VI.)

## CHAPTER XII

# THE ELECTION OF PARLIAMENT

Constituencies and Voters  
Criticisms of Present Law  
    Insufficiently democratic  
    Too democratic  
    Proportional Representation  
    Functional Representation  
Progress of an Election  
Electors and Elected

### CONSTITUENCIES AND VOTERS.

The House of Commons is intended to represent the people. If this purpose is to be fulfilled, every adult should have an equal share in electing the House. The country is accordingly divided into constituencies, each of which has the right of returning one, or, in a few instances, two Members. The constituencies are either "Parliamentary boroughs" or Divisions of Counties, so that a vestige of the old plan of burgesses and knights of the shire is preserved, though the distribution of Members has changed greatly with the growth and movement of population. Some towns which have the status of a Borough for their own local Government—have, for example, a Charter and Mayor—are too small to have a Member and are included in a County Division; thus Truro is in the Penryn and Falmouth Division of Cornwall; other Boroughs in the local Government sense, such as Manchester, are so large that they must be cut into several Divisions each returning a Member. The present arrangement of constituencies, dating from the Representation of the People Act, 1918, is as follows:—

London is divided, for its local Government, into the City of London and 28 Metropolitan Boroughs of varying size. The



City returns two M.P.s and the Metropolitan Boroughs are sub-divided so that there are 60 constituencies each returning one Member. The other English Boroughs return 193 Members, and the English County Divisions 230. Wales returns 11 Borough and 24 County Members. The Scottish Burghs have 33 and Scottish Counties 38. A Scottish Parliamentary Burgh is often composed of several small towns scattered over a county, the intervening countryside being the County Division; this plan is not used outside Scotland except for the constituency of Carnarvon Boroughs which returns Mr. Lloyd George. The Province of Northern Ireland has four Borough and eight County Members. Thus 603 Members come from constituencies formed by dividing the country geographically. The remaining 12 are elected by people throughout the country who are graduates of a University. Oxford and Cambridge return two each, London one; the other English Universities combine to return one. Scottish Universities form a combined three-member constituency; the University of Wales, and The Queen's, Belfast, have one each.

Although an effort was made in 1918 to ensure that constituencies should be of approximately equal size, great inequalities have since appeared; people have moved from areas stricken by severe unemployment and from the crowded parts of East London, while the population of Greater London, just outside the county boundary, has grown. So, while the average number of voters in a constituency is about 50,000, the Romford Division of Essex had at the 1935 Election 167,939 and S.W. Bethnal Green 27,484. A redistribution of seats, by Act of Parliament, is clearly overdue but, if it is to be done fairly, cannot be hurried. A huge constituency now returning one Labour Member might be cut into three parts, each containing districts which are usually Labour and districts usually Conservative, but with a good chance of a Labour majority in all three; the drawing of other lines on the map would produce one safe Labour seat, one safe for the Conservatives, and one where

the parties were about equal. The party in power cannot in justice use its majority to redistribute to its own advantage, and the problem requires consideration by an all-party Conference.

The task of making up the Register of persons entitled to vote is laid on local authorities. Every year the Clerks of Borough and County Councils, acting as Registration Officers, send out forms, which the public are legally required to fill up correctly, and so discover the name of every British subject over 21 who has lived or occupied business premises in the constituency for the three months ending June 1st, or is the husband or wife of anyone possessing the business premises qualification. All these are entitled to vote unless they are certified lunatics, persons convicted of treason or felony, or offences against the Electoral laws, Lords of Parliament, or Scottish non-representative Peers. Members of the Armed Forces or the merchant service do not have to fulfil the residence qualification, and all persons whose occupation makes it likely that they will be elsewhere when the Election comes can get their names put on the Absent Voters' List so that a Ballot Paper can be sent them by post. On July 15th the Registration Officers publish the list of voters and from then till the end of the month persons who think that they ought, or that someone else ought not, to be included, can send in their objections. Everyone who wishes to vote is well-advised to inspect the list at the Town Hall or Post Office during this period, and the agents of political parties do their best to see that all their known supporters are properly included. The Registration Officer then meets the agents and others who may be interested and settles the objections; the final list comes into force on October 15th. The Register used to be made up twice a year but in 1926 a single yearly Registration was introduced in order to save money. Consequently people who move to a new constituency may find that some time will elapse before they get on the Register. When a by-election occurs shortly before October 15th, it may be that as many as 25% of the voters have left the constituency and much effort is expended by party

organisations in tracing these removals and providing cars to bring them to the poll.

In University constituencies officials of the University itself compile the list. The usual qualification is the holding of a degree from the University concerned, though sometimes other formalities are required. So a person may possess a residence, business, and University qualification for voting: but at an Election no one may give two votes in the same constituency, nor more than two votes in all.

All who are qualified to vote are also qualified to stand and be elected, except clergymen of the Established Churches of England and Scotland, and of the Roman Catholic Church, and persons holding a salaried office from the Crown, though this does not, of course, apply to Members of the Government. The Sheriffs and Mayors who, in Counties and Boroughs respectively, act as Returning Officers in charge of the election, cannot vote unless there is a tie between two candidates, when the Returning Officer's casting vote decides the issue.

#### CRITICISMS OF PRESENT LAW.

The rights of voting and standing are thus so widely extended that the system seems certain to produce a House representative of the people's will. It is criticised, however, from four points of view.

(1) It does not give complete equality to all voters. The business qualification gives some advantage to wealth, and the allocation of two Members to the City of London, with an electorate of about 40,000, has the same effect. There is some force in these objections since it is no longer a principle of British Government that property owners should have exceptional voting power, and the business qualification is a relic of the days when property was a necessary qualification for all voters. But since the total effect on the result of an election is not very great, the question is not of first-class importance. The extra vote in University constituencies is more vigorously attacked.

Its supporters claim, as a matter of principle, that educated people understand Government better than others, and should have more power in choosing those who are to rule. This is very debatable: all the people have to be governed and they all know what it feels like; if a privileged group are given special powers they will pay insufficient attention to the grievances of the unprivileged, which lie outside their own experience. Nor is the possession of a University degree any proof of superior fitness for choosing the Government. The graduate may have gone to a University simply because his parents could afford to send him, and there secured a Pass degree with a minimum of ability or industry. Alternatively, he may be a brilliant scholar, but acquainted only with one branch of knowledge and remote from the life of the people; his claim to the extra vote may be answered, appropriately enough, by the Greek proverb "Much learning does not teach sense". Both these types are common enough in Universities. There is more to be said for the practical argument that University constituencies permit the election of men and women who combine academic brilliance with knowledge of the world; who can make valuable contribution to Parliament's work, but do not belong to any party and so would find election elsewhere more difficult. Sir Arthur Salter, Member for Oxford University and Miss Eleanor Rathbone, for the Combined English Universities, can be quoted as examples. For the most part, however, University electors do not seek to return members of this kind, but give their votes with quite as rigid an adherence to party as anyone else. Many illustrious names—Mr. Gladstone, John Stuart Mill, Professor Gilbert Murray—can be found in the list of those rejected on party grounds by University constituencies.

(2) Other critics claim that the present law gives too much equality, and that the vote should be restricted to a group distinguished from the mass by wealth, aristocratic birth, or education. The general argument concerning democracy must be examined later; here it will be sufficient to note practical

objections to any proposal of this nature. The wealthy and aristocratic have already great governmental influence, both in the House of Lords and elsewhere; it would be impossible to persuade the majority to give up their vote to such a group. The theoretical and practical objections to Government by an aristocracy of the educated have already been noted; and who could devise an examination which should show who were fit to govern? The idea of a restricted franchise has ceased to be practical politics: modern opponents of democracy do not adopt it; rather, they allow the whole people to vote on certain occasions, taking care that the vote shall have no real effect on the powers that rule. It is interesting to read Bagehot's attack on the idea of votes for all adults, the "ultra-democratic theory", as he calls it. He paints a lively and not altogether untrue picture of the type of Parliament which will be elected by universal suffrage. Events, however, have shown him to have neglected one great truth—that the extension of the vote to the working-classes, and particularly to working-class women, would oblige Parliament, as never before, to give attention to social questions—that is, to the lives and everyday needs of the people.

(3) The number of Members of each party in the Commons does not properly represent the numerical strength of the parties in the country; in particular, minorities are under-represented. The truth of this criticism can be demonstrated by simple arithmetic. If in one constituency a Labour candidate gets 15,000 votes, a Conservative 12,000 and a Liberal 8,000, then a Labour M.P. is elected though there is a non-Labour majority. Suppose that in each of three constituencies 40,000 votes are cast and that of the total 120,000 only 50,000 are Conservative; yet if 22,000 of these have been cast in one constituency, 21,000 in another and 9,000 in the third, the Conservatives, possessing only five-twelfths of the votes in the whole area will win two-thirds of the seats. The result over the whole country can be illustrated from recent elections. In 1924 there were just over 8,000,000 Conservative votes,

not quite half the total cast; yet the party secured two-thirds of the seats. The Labour party, with about 5,500,000 votes, a third of the total, secured only a quarter of the seats. In 1929, however, Labour, with 37% of the votes won 47% of the seats, while the Conservatives, with a slightly larger vote than that of Labour, won only 40% of the seats. In 1931 the parties supporting the Government had two-thirds of the votes and nine-tenths of the seats; in 1935 they had 55% of the votes and 70% of the seats. The smallest party is usually the heaviest loser; the Liberals, in 1929, had nearly a quarter of the votes but less than one-tenth of the seats.

Various methods are proposed to get a House more exactly representing the voting strength of the parties. One of these, the Second Ballot, is used in France. After the first voting day only those candidates who have received more than half the votes cast in their constituencies are elected. In the other constituencies the candidates at the bottom of the poll withdraw, and a week later the people make their choice among those who remain. When another method, the Transferable Vote, is used, the voter puts against the name of the candidate he supports, not a cross, but the figure 1; then if he wishes he can put 2, 3, and so on against other names, in order of preference. If a candidate has a clear majority of first choices, he is elected; if not, the votes given to the candidates at the bottom of the poll are divided according to the second choice marked on them; this process is repeated until one candidate has a clear majority. This method is used in the University constituencies, in most of which, however, it is complicated by the fact that two or three Members are to be elected.

The University system is in fact an intermediate step between the simple Transferable Vote and the plan of Proportional Representation. The latter is more elaborate than either of the previous plans, but also more successful in making the elected assembly a miniature reproduction of the electorate. The country would be divided into large constituencies returning

several Members; thus Cornwall, which now contains five single-Member constituencies might become one five-Member constituency. To be elected, a candidate must obtain a "quota" of votes varying with the number of Members to be returned: in a five-Member constituency the quota would be just over one-sixth of the votes cast, in a six-Member constituency, just over one-seventh, and so on. The Voter records a Transferable Vote; candidates with more than the quota of first choices are elected, and their surplus over the quota is distributed among the other candidates in the proportions which second or later choices indicate. The votes of the candidates at the bottom are similarly distributed until the required number of persons obtain the quota and are elected. Supporters of this system claim first, that since it gives fair representation to all parties, there will not be as at present, large numbers of citizens who feel that they do not get their proper share in choosing the Government. Secondly, small groups will find it easier to get representation in Parliament and will thus be able to bring their proposals to the notice of the great parties, which, left to themselves, are inclined to stick to their traditional programmes, to the neglect of new ideas. Thirdly, the parties, realising that their seats in the House will be proportionate to votes in the country, will try to win support by making their programmes less extreme. Nor will it be usual, as past voting shows, for one party to get a clear majority in the House, and coalition Government will be more frequent. So party strife will be less keen, and extreme policies, in one direction or another, will be prevented.

There are several objections to these arguments. It is not certain that a House which photographically represents each party and group is a true picture of what the electors want. Keen party supporters would often prefer to see their party in opposition than forming part of a Government with other parties, dependent on them and unable to carry out the policy in which it believes; for then party members become discouraged

and the elector is led to suppose that all parties are much the same, and that it does not matter how he votes, or whether he votes at all. Nor are the mass of electors, not firmly attached to any party, more likely to be satisfied. They usually desire to see returned to power a Government able to carry through a policy which has been stated at the election; should the Government fail to do so, it can be judged accordingly. Under Proportional Representation the elector would know that whatever party he voted for, there would be little likelihood of its policy being carried out; for the Government would be a Coalition whose nature and working would be unpredictable. At the 1924 Election the majority of electors clearly wished to defeat the Labour Government; in 1929 they wished to defeat the Conservative Government but were not prepared for the Socialist proposals of the Labour Party. In 1931 there was a determination to give the National Government solid power; by 1935 enthusiasm for that Government had waned, but the majority still preferred it to a Labour Government. The people may have been right or wrong to wish these results; but that they did wish them is certain to everyone who studied opinion at the time, and, under our present voting system, they secured them. The measure of support secured by the victorious party is, no doubt, exaggerated; but the suggestion that the present system is a gamble, and its results a matter of chance, will not bear examination.

The members of great parties are held together to-day by the knowledge that if they sink minor differences they may be able to return a majority Government to power. Proportional Representation, by taking away the hope of a clear majority and increasing the chances of small groups would yield a Parliament in which the number of parties was greatly increased. The inevitability of Coalitions would not lessen party strife; each party could put forward a rosy programme without bothering too much about its practicability: for the excuse is always to hand "You could not expect us to carry out all our programme; we had to sacrifice this and that item at the request



of other parties in the Government." The Government's programme would be arranged by bargaining. "We will agree to this if you will agree to that"; and in this atmosphere principles and the will of the people are likely to be forgotten.

The fierceness of party strife is not determined by the method of voting but by the problems which the country faces. When, as in Germany after 1930, economic distress is acute and the only apparent remedies involve the sacrifice of the interests of one section or another, then the conflict becomes bitter. The Governments produced by Germany's Proportional Representation system were unable, being Coalitions, to pursue a consistent, determined policy which would win popular support; and in the general confusion the liberty of the German people, and the security of Europe, vanished. If it is a virtue in Proportional Representation that it checks extremism, it is a vice that it encourages delay. When great difficulties have to be faced the people will forgive much extremism to get a Government which can act boldly and quickly; if a Proportional Representation system hinders them, they are likely to throw aside self-government.

(4) The grouping of electors into geographical constituencies is criticised as unreal by those who advocate functional constituencies, grouping the electors not according to their dwelling but to their work. On this plan, miners, shipbuilders, teachers, and all other workers would elect representatives from their own ranks and the Parliament would be the combination of these groups. Every Member, it is urged, would thus have expert knowledge of some occupation; to-day the candidate appeals to electors of many different occupations and may be able to impress them simply by his talk and manner, without any real knowledge. But the present Parliament is by no means composed of such people. Some there are, no doubt, who possess little knowledge of any kind; on the other hand, scarcely any problem arises on which there are not some Members with expert knowledge. Among the Conservative Members are many

with first-hand knowledge of controlling large businesses or estates; in the Labour Party many with experience of a wage-earner's life; in all parties, lawyers, journalists, doctors and people from academic life. In some debates this becomes very plain and Members are inclined to think of their own professional and industrial interests to the neglect of other workers. Here, indeed, lies the chief defect of the functional plan—that it would aggravate the sectional spirit. When the miners are electing their representatives, one candidate might say, "I recognise the problems and needs of our industry; but on this or that point we should not press our case; there are other workers to be considered." The electors would be inclined to reply "That is true; but they elect their representatives to look after their interests; we must choose someone who will press for our interests all the time; for if we do not, no one else will." Human beings are not unconquerably selfish; but the effect of a functional system of election would be to encourage selfishness. Functional, or "Corporative" Assemblies are frequently advocated by Fascists, who answer this objection by saying that the Government would see that each group in the Assembly remembered the over-riding interests of the State. But if the Government controls the Assembly, the Assembly does not control the Government; it is not a Sovereign body but can only advise the Government, which must either be elected from geographical constituencies or not at all. Put in this way, the functional system is merely a device to shift power out of the hands of the people. Experience bears this out; the Corporations of Italy in no sense enable the people to control the Government; they are pieces of machinery through which an unelected Government controls the people.

#### PROGRESS OF AN ELECTION.

It does not appear, therefore, that any decisive case has been made against the present system of constituencies. But before the results can be called satisfactory the progress of an election

must be examined. The Prime Minister, either when he thinks fit, or when the five-year limit has nearly expired, advises the King to dissolve Parliament, and the advice is taken. Writs are then issued to the Sheriffs and Mayors, requiring them to conduct the election; the bulk of the work is done, in their names, by permanent local Government officials, acting as Deputy Returning Officers. On the same date, in every constituency, comes Nomination Day; the candidates must then present themselves to the Returning Officer, equipped with a nomination paper signed by ten voters in the constituency, and with a deposit of £150 which they will forfeit if they get less than one-eighth of the votes cast. Candidates often bring many nomination papers as a sign of their popularity and a precaution lest some technical irregularity should make one invalid. It is possible to insure against losing the deposit, and when this has been done the candidate's supporters can borrow the money. Usually six or seven per cent. of the candidates at a General Election forfeit their deposits. If only one candidate appears on Nomination Day he is declared elected forthwith; this is likely to happen in some forty or fifty constituencies where experience has shown that one party invariably wins; in the remainder a poll is held nine days after Nomination Day.

Meanwhile the campaign has been in progress ever since the date of Dissolution was known. Each candidate is allowed one free postal delivery to every elector, and by this means sends out his Election Address, a four-page folder bearing on the outside a photograph, personal details and a list of meetings to be held; inside is a statement of some 1,000 words outlining the candidate's policy and the defects in those of his opponents. The electors react in a variety of ways; many read the Address and allow it to have some influence on their opinion; some use it as fuel, or wrapping paper, or leave it to lie unopened; zealous partisans and persons with a special plan for putting the world right, return it to the sender with critical notes in the margin, or savage comments written across it.

The sending out of the Address involves much work in envelope addressing, on which a keen party organisation starts well in advance, so as to free its helpers for other work. In charge of all their labours is an agent appointed by the candidate and responsible for seeing that the electoral laws are kept. The party organisations in many constituencies maintain full-time agents who manage both the elections and the party activities at other times. The agent and his subordinates arrange for the display of posters throughout the constituency, the establishment of committee rooms in each district, the distribution of leaflets and the hiring of meeting-halls. The local organisation keeps in touch with the national headquarters of the party, from whom comes most of the literature used in the campaign. Tours are arranged for the chief figures in the party so that their help shall be brought to bear in the marginal constituencies where the fight is keenest.

The candidate is deluged with letters which, since his party's policy can be learnt from the Election Address, usually ask his opinion on non-party matters. What is his view of Sunday amusements? Will he support or oppose vivisection, voluntary sterilisation, relaxation of the licensing laws, taxes on cats, compulsory inspection of monasteries,<sup>1</sup> and many other proposals. If he is wise he will answer all these queries, for the elector will be less annoyed by a refusal of his request than by neglect of his letter. Much of the candidate's remaining time will be spent at meetings. In the daytime he can catch factory workers at the dinner hour, or, parking a loud-speaker van in the street, can address housewives even though they stay indoors. At the end of the day the number of meetings grows—at street corners, in open spaces, and inside halls. The candidate must speak at as many places as he can, and while he moves from one to another his supporters must keep the meeting going. Nor will his audience be satisfied with a speech; they will expect him to answer questions, and sometimes he will spend half his time at

<sup>1</sup> This sounds improbable, but is within the writer's experience.

the meeting on this task. Questioners may be simply seeking for information, or, particularly at open-air meetings, they may heckle—that is, put questions which they hope will extract some damaging admission or expose the candidate's ignorance. Heckling is a legitimate practice and an exacting test; the candidate who knows his case need not fear it; on the contrary he will welcome it since a good answer wins the sympathy of the audience. The questioning can degenerate into rowdyism; the questioner may shout one question after another without waiting for an answer; there may even be deliberate attempts by groups in the meeting to shout the speaker down and end the meeting in violence. In some districts there is an evil tradition of disorder, but an able candidate will not usually have much difficulty. If, however, he has an arrogant manner; if he gives the audience to suppose that he despises them; above all, if he is reluctant to answer questions, he will soon turn the most placid assembly into an indignant and vociferous crowd.

But, with all this effort, only a small proportion of the electorate will be reached; in very many constituencies less than a tenth of the people go to meetings. Election workers are agreed that contests are won or lost "on the doorstep". From the beginning of the campaign the candidate's supporters go up and down the streets, from house to house, asking the voters where their sympathies lie. Little time is spent trying to convert opponents; that must rather be done between elections. The election canvasser's duty is to locate the supporters of his party. If some voters are doubtful, the canvasser will make a few points briefly, and leave a leaflet; if some have special points on which they wish to be reassured, a note will be made and the candidate himself will call. Canvassing, like much political work, is exhausting, and, despite a few amusing encounters, monotonous; but it is a valuable factor in the preservation of a healthy political life. The sensible candidate or party worker, who keeps his ears and his mind open, learns from canvassing, as from no other source, the wishes of the people. He will not, as a rule, be asked to state

the general principles and policy of his party, but to discuss some problem in which the voter has a personal interest. "Why is my rent so high?" "When shall I be able to get a job again?" "What sort of a chance in life does your policy offer to my children?" "My husband was killed in the War; what can you do to stop wars in the future?" A confident answer that everything will be put right will not serve; the elector wants to know what are the difficulties in the way and how far they can be overcome; in effect, does the would-be M.P. know the problems of the people he proposes to represent, and can he discuss those problems sensibly? If the candidate cannot pass this test he has missed his vocation. The direct contact of canvassing can save the politician from elaborating far-seeing plans which neglect immediate issues; if the knowledge gained is properly used the programmes of parties can be kept close to reality.

Some electors shut the door on the canvasser as soon as they learn that he is not of their party; but often even opponents will listen or take a leaflet to read, saying that "It is nice to hear both sides". This remark is the stamp of a politically civilised person, and the frequency with which it is heard is a good augury for the future of liberty in this country.

If the canvassers have time to complete their work, its fruit is a copy of the Voting Register, in the agent's hands, with a full record of "Fors" "Againsts" and "Doubtfuls". When Polling Day comes the organisation works to ensure that all known supporters vote. Cars lent by friends are used to bring in the infirm, the removals, and, toward the end of the day, anyone who can be persuaded. The poll is open from 8 a.m. to 8 p.m., or 7 a.m. to 9 p.m. if any candidate has asked for such an extension. Each of the polling stations is cared for by a Presiding Officer and assistants, with a policeman in attendance. The intending voter gives his name and address, and his right to vote is checked from a copy of the Register. He is then given a voting paper, retires to a booth to put a cross against the name of the candidate he supports, and thrusts the paper into the Ballot-box.

As he leaves the station, the party workers will ask him what his number on the Register is; thus lists of those who have voted are compiled, and sent to party Committee Rooms, where the workers concentrate on sending messages to known supporters who have not yet voted. The secrecy of the Ballot is rigidly preserved; many voters announce their sympathies openly, but none is obliged to do so. A voter may refuse to answer a canvasser; he may even promise to vote for Mr. Y., ride to the poll in the car of one of Mr. Y's friends and there vote for Mr. Z. and no one will be the wiser. There is a number on his voting paper but it is not the number against his name in the voting register. That latter number (the "polling number") will be pencilled by the Presiding Officer on the counterfoil of his voting paper. So a comparison of voting-papers, counterfoils and register would reveal each voter's choice; these documents, however, are only brought together when it is proved that unqualified people have secured votes by impersonating someone else, and a legal scrutiny is demanded. University Constituencies, where most voting is by post, still have an open Ballot, and the voter signs his name on the Ballot Paper.

The candidate spends Polling Day touring the constituency, encouraging his workers. When the poll has closed, interest shifts to the Town Hall or other public building where the votes are counted. This is done under the supervision of the Returning Officer, while the candidate and the people whom he has appointed scrutineers, are alert to see that no mistakes are made, and to argue about spoiled papers. A paper is spoilt if the voter has put on it other marks than those legally required, or has marked it so clumsily that his intention is not clear. The final decision, whether a paper is spoilt, is made by the Returning Officer or his deputy. If the first count shows only a small majority, there will be recounts, till, in the early morning, the Returning Officer declares the final result. Winners and losers make short speeches to the crowd assembled outside, and the election is complete.

Such, at least, is the campaign in an urban constituency. In the countryside there is the same process, but the excitement, however great, is not so obvious. There will be small meetings in villages and long journeys for the candidate; the influence of landlords and employers will be greater. The assembling of votes for the count will take longer and the results usually appear on the following afternoon. A wintertime election in the North of Scotland is a grim task for the party worker, and the elector cannot hope to see much of his candidate.

Since there is so much work to be done, much money is spent. The law states that there may not be spent, on behalf of any candidate, more than 5d. per registered elector in Borough, or 7d. in county divisions. The agent has to submit accounts shortly after the election to show that he has not exceeded this limit. "Corrupt" practices—e.g., bribing or threatening voters, are heavily penalised, and the less serious "illegal" practices, e.g. hiring cars to carry voters, involve large fines and the disqualification of the offender from voting or standing at any Election for a period of years. When a successful candidate is believed to have broken the law his opponents may bring a Petition, and the case is heard and decided by two judges. Petitions, however, are rare, and successful Petitions still rarer. The electoral laws, in which an agent needs to be expert, have removed the most serious of the abuses which were common in the 18th century; but the dice is still loaded in favour of the wealthy candidate. Cars may not be hired; but those well enough off to own them may lend. The total sum to be spent is limited; but only a wealthy candidate or party can approach the legal limit. More serious, the man who intends to be candidate can, for years before the election, give freely to all the local charities, football clubs, outings and the like; so long as he calls himself only *prospective* candidate, all this need find no place in his election expenses. The central organisation of a party may cover the whole country with posters; so long as they recommend the party in general and not the particular candidates



in each constituency, they are not part of any candidate's legal expenses. Some of these practices are inevitable; there are few activities, political or non-political, in which the possession of wealth does not give an advantage. The law might, however, be made more effective by the reduction of the present high limit of total expenditure. To-day, not only is the poorer party at a disadvantage, but the non-party candidate is even more handicapped. Such "independent" candidates are usually people of means, or else well-known and liked in the district and so able to command the services of many friends.

#### ELECTORS AND ELECTED.

Even the shrewdest observer can give no certain answer to the question, How do the electors make up their minds how to vote? About one quarter of them do not vote at all. Some are prevented by illness or absence; long hours of work and great distance from the polling station may make voting so difficult for some that only the most zealous of them will attempt it. Some are too old to care very much; others, particularly the younger electors, are more interested in sports and social activities. Some do not find themselves sufficiently in sympathy with any candidate to wish to vote. There remain those who, without any of these excuses, cannot be bothered to think about politics and do not believe it will make much difference however they might vote.<sup>1</sup> Those who do vote are influenced by many factors. Some vote as their parents did, though this is less common than formerly; sometimes a tradition of voting one way spreads over a whole district. Some vote for the candidate they think will win; some vote against the Government, whatever its nature, because life has not gone well with them lately and they feel, rightly or wrongly, that the Government is to blame. These unthinking groups do not form a large proportion of the whole. There are the convinced

<sup>1</sup> This is common in constituencies where one party regularly secures a large majority.

party supporters, and finally the central mass who will attend to a certain amount of propaganda, read their newspapers, talk with their neighbours, and then use their own judgment. The size and variety of the electorate makes it impossible for the active politician to predict election results with certainty. He cannot afford to ignore any method of approach since each may be successful with some electors, and the uncertainty rouses in him an unjustified exasperation, particularly if he is defeated. For the electors are not foolish; 19th century opponents of votes for all declared that the people would follow demagogues who promised a new heaven and a new earth without regard for facts; but the prophecy is unfulfilled. To judge from results, the elector in post-War Britain likes best the party which seems to know its own mind; which has a definite, if small programme, on which it is united. Now this is by no means a bad criterion, though it is insufficient. The commonest defects in the elector's judgment are two: first, he does not sufficiently consider what the results of a given policy may be in eight or ten years', rather than two or three years' time; second, his better judgment can be upset by the sudden introduction of some new issue. These are exactly the weaknesses to be expected, when one considers that the majority have their livings to get and their children to mind, and cannot all be eager students of politics. The electors' judgments are liable to error; but it is the error of sensible folk with limited opportunities for consideration, not the blundering of fools.

The House of Commons which emerges from the election, contains, as has been shown, representatives of very many walks of life. It also contains people of very different character. A few, who have been attracted by the prestige of being an M.P., find the work more than they expected and take little part in it; there is nothing in the law to oblige an M.P. to attend the House at all, but the continual slacker is unlikely to be returned again. Even his party supporters will feel insulted and look round for a new candidate at the next election. The conscientious M.P. has much to do; every day there will be letters from his

constituents asking for his advice about pensions, rents, unemployment assistance—all the points at which the citizen comes into contact with the law. If the Member is well-known and respected, he may even be asked to reconcile husbands and wives. By diligent attention to these individual requests he may win such a hold on his constituents as will stand him in good stead even when opinion is unfavourable to his party. When Parliament is sitting, two or perhaps more mornings a week will be occupied by committee work, and for the rest of the day the Member will be either in the Chamber or elsewhere in the House at the disposal of the Whips. At the week-end, and during the Parliamentary recesses, his constituents will expect to see him at local functions and party meetings. The House is thus far less of a club than formerly; membership of it has become very nearly a full-time job, though many M.P.s still do some outside work. This is possible for lawyers, journalists, company directors and others who can, at need, vary the amount of work they do. If the reform suggested in Chapter X were carried out the tendency towards full-time employment in political work would be strengthened. Payment of M.P.s is therefore essential if the House is not to be composed predominantly of wealthy people. A yearly salary of £400 was first granted in 1911; this was increased in 1937 to £600 which was not unreasonable, in view of the general rise in prices. The Member has also the privilege of free railway travel between the House and his constituency; otherwise the Member for Inverness would be at a hopeless disadvantage compared with the Member for the Abbey Division of Westminster. Once elected, the Member cannot resign his seat, but if he accepts a salaried office from the Crown, other than a position in the Ministry, he is automatically disqualified and ceases to be a Member. Those who wish to resign, apply for the office of Steward of the Chiltern Hundreds, or of another Crown estate, the Manor of Northstead. These posts involve no work, and the newly appointed Steward, freed from the Commons, resigns his Stewardship next day. Vacancies also occur when

Members die, or are created Peers, or appointed to judgeships, and other public offices. The Whips of the party concerned, or the Speaker, then see that a writ is issued ordering a by-election. There may be a score of these each year, and they give Government and Opposition a useful indication of the movement of opinion in the country.

In conclusion, it should be noticed that membership of the Commons is an honourable and respected occupation. This fact impresses American observers who contrast it with the general attitude to politicians in their own country. The ancient traditions of the Constitution and its connection with the Kingship shed a certain dignity on everyone connected with Government. The control of finance, and the character of the Civil Service, make it impossible for the politician to enrich himself out of public funds. The acceptance of bribes from outside, and the subtler forms of corruption cannot flourish; for the highly organised party system makes it difficult for the Member to sell his allegiance elsewhere. Above all, there is the knowledge that the public will not greet an exposure of corruption, even on a small scale, with a shrug of the shoulders, but with execration. So, though a few scoundrels have had Parliamentary careers, there is no natural attraction of scoundrels into the House; there are more profitable openings for them elsewhere. Nor will the man who wants a comfortable income find that Membership of the Commons is the easiest road. A high standard is set by the conscientious Member whom his constituents can call in the fullest sense "our Member"—the link between them and their Government, the person through whom they can exercise no small part of their rights as citizens.

#### BOOKS:

\*MASTERMAN. *How England is Governed.*

HUMPHREYS. *Practical Aspects of Electoral Reform.*

## CHAPTER XIII

# PARTY GOVERNMENT

The Reason for a Party System  
Capitalism and Socialism  
The Conservative Party  
The Labour Party  
Right and Left  
The Liberal Party  
The Party System

### THE REASON FOR A PARTY SYSTEM.

The description of British Government so far given has required frequent mention of political parties. The law does not mention them; their nearest approach to official recognition is in the rules for the formation of Committees of the House of Commons. Yet without them the whole nature of the Constitution would be changed, and many of its conventions would become unworkable. The relations of Parliament to the Government on the one hand, and to the people on the other, are governed by the party system. The essence of this system is that people who find themselves in agreement on major matters of policy should unite in organised bodies to secure the return to Parliament, and to other elected assemblies, of Members who will work for an agreed policy; and that these Members, sinking minor differences, should vote and act together. Party politics are based on two undeniable facts. First, that where men and women are allowed to think freely, they disagree: they are born with different intellectual capacities; environment gives to each his own experiences, prejudices and opportunities for study. Their opinions are therefore based on varying amounts of knowledge, mixed with various prejudices and applied with

greater or less wisdom; so, in a free country, there will be more than one party. Second, that no one person can do all the work of Government, nor can he hope to find many who agree with him on every topic; the individual's only chance of influencing the Government is to ally with those of similar opinions and frame with them a policy representing the highest common factor of agreement; so there will not be as many parties as there are citizens.

Party politics, in one form or another, have invariably accompanied liberty; yet they are one of the commonest objects of criticism. On the one hand it is said that they divide the nation; on the other, that they mass individuals into groups and stifle independent thought. Examination of the form taken by the party system in Great Britain will enable the validity of these criticisms to be tested.

#### CAPITALISM AND SOCIALISM.

It is first necessary to discuss the frequently used terms Capitalism and Socialism. In the present Capitalist order of society most of the land, factories and other equipment for the production of wealth are owned by private persons, using their ownership to secure profit for themselves. These owners form a minority of the population; the majority live wholly or mainly by their work; there is legal liberty for everyone to work as he pleases, to save and to acquire property. Defenders of this system argue that the possibility of becoming better off acts as a stimulus to hard work and thrift, so that the total of wealth is increased; that since those who manage industry are the owners of it they will do their best to see that it produces what the public wants; for it is by such production that profits are made. Thus Capitalism might be said to take the powerful desire, implanted in everyone, to do well for himself and his family, and enlist it in the service of abundant and efficient production. Supporters of Capitalism will admit that it often falls short of its ideal; that the inheritance of property allows

some to be well off without effort and places incompetent people in positions of power; but they will urge that these examples are not sufficiently numerous to condemn the whole system. At the other end of the scale, many people are born too poor to have much chance in life; they cannot save a great deal, their education is limited, the legal freedom to become rich, if they can, has little significance for them. This is answered by pointing to the achievements of Capitalism, particularly in the last century, when it enormously increased the wealth of mankind; out of this wealth it has been possible to provide public education and many other services which help to remove social injustice. Capitalism, in the view of its defenders, has rescued mankind from the grinding poverty of the past, has raised the standard of comfort, and provided increased opportunities to all; it can continue to do this work by using the incentive of private gain. The system which now produces wealth is highly complex; would it not be thrown into disorder if it were taken out of the hands of those who now own it, to be run by public officials? Will it not be best to preserve the main features of Capitalism? As wealth goes on increasing the social services will grow likewise; so Capitalist society will become rich enough to afford the remedies for its own defects; but if, in a premature attempt to relieve poverty and injustice, the ownership of property and the stimulus of private gain are tampered with, the production of wealth will slow down and the reformers will defeat their own ends.

Socialists advocate a form of society in which the equipment for the production of wealth would be owned by the whole people and controlled in accordance with an agreed plan; the wealth itself would be more equally shared, and everyone would have an equal opportunity to develop his talents. Instead of two classes, owners and workers, there would be a classless society in which all would be workers, and all, collectively, owners. In reply to the arguments given above they claim that the defects of Capitalism have been understated; that undeserved

wealth and undeserved poverty are the rule rather than the exception. While admitting the growth of wealth under Capitalism they point out that the proportions in which it is shared do not greatly alter; the working man is better off than his grandfather but feels himself poor in comparison with the more fortunate members of the community to-day. They further contend that the growth of wealth will not continue; that the pursuit of private profit has led to monopolies and other schemes to restrict production by which each group of capitalists hopes to win something for itself. By this reasoning, private ownership is no longer a stimulus but a hindrance to production. Meanwhile the management of industry passes into the hands of salaried employees; might not these serve the community at least as willingly as they now serve private persons, the effect of whose ownership is to prevent the abilities of managers and other workers from being fully used? Thus, in the Socialist view, the production of wealth becomes a disorderly scramble, the fruits of which are restriction of production, unemployment, slumps, and—when capitalists try to solve their difficulties by acquiring and protecting overseas markets—wars. Does it not therefore appear that Capitalism has done its work in showing the possibilities of wealth production, but handles these possibilities so clumsily that it should now give place to a planned Socialist Commonwealth?

Whichever of these views is correct, the merits of Capitalism will be plainest to those now enjoying tolerable comfort, and Socialism will appear especially desirable to those with the closest experience of Capitalism's defects. The argument becomes not an academic discussion but a conflict between classes. Consequently it is clouded with abuse, Socialists accusing their opponents of callousness and ignorance of the lives of the poor, and being in their turn attacked as impractical dreamers or discontented revolutionaries, anxious to share the wealth that others have created. The reader, if he wishes to form his own judgment, must pierce this cloud and endeavour to decide,



on the evidence presented by world events, whether Capitalism will destroy itself or whether its powers of recovery illustrated after the War, will deliver mankind from present difficulties and lead them to greater prosperity. The sensible person refrains from calling his opponents fools; neither is he content with the easy phrase, "There is much to be said on both sides"; having examined the evidence he gives his support resolutely to the side which seems to him to have the better argument.

Against this background the party programmes can be set.

#### THE CONSERVATIVE PARTY.

This is the usual designation; the official name is *Conservative and Unionist Party*.

Human beings often show an unwillingness to abandon customs and ideas which they have respected for a long time. This natural conservatism, praised by Edmund Burke in his horror at the French Revolution, is claimed as one of the bases for the Conservative Party's philosophy. It appears particularly as a love of traditional forms and solemn ceremonies, so that Conservatives dislike criticism of old institutions such as the Monarchy, and emphasise the duty of loyalty to the King and to the State which he personifies. Since one of the chief things to be "conserved" to-day is the structure of Capitalism, the great industrialists are joined to the old aristocracy in the Conservative ranks. This union, encouraged by Peel in the second quarter of the 19th century, was indeed the making of a Conservative Party as distinct from the old Tory party of the landed classes. The Tory element remains, forming the Right Wing of the party; a few of these, called "Diehards", are inclined to regard all change with disfavour. Conservatism, however, means caution, or perhaps reluctance to change, not refusal; the majority of Conservatives urge that Capitalism must be justified not only to the rich but to all classes; democracy should be preserved and the social services extended. They point out that the great Conservative Disraeli extended the franchise in 1867 and was

especially interested in social services. Nor, in their view, must support of Capitalism mean complete abandonment of industry to private enterprise; the Government should keep watch and, where necessary, give assistance in such forms as tariffs, subsidies and marketing organisations. Nationalist feeling and the influence of industrialists combine to make the party favour the protection of home industries by taxes on foreign goods, as a remedy for unemployment. In the 20th century this proposal has taken the form of Imperial Preference—i.e., permission for goods from British territories overseas to be imported at specially favourable terms—and extension of inter-Imperial trade. Such was the policy advocated by Joseph Chamberlain without success; since the War it has been revived and partially realised in the Ottawa Agreements of 1932. The term "Unionist" meant in the last century one who was opposed to Home Rule for Ireland; a body of Liberals who left their own party on this question were called Liberal Unionists but were later absorbed in the Conservative Party; the name is now used to describe the Conservative attitude to the Empire. This attitude makes the party somewhat doubtful of international ideas; it is a Conservative maxim that a strong British Empire is the best guarantee for world peace. Conservative Governments have approved Britain's membership of the League of Nations, but they do not consider that the immediate possibilities of preventing war by League action are as great as other parties believe them to be.

The party draws its support from the rich and from those of moderate incomes who feel that Socialism threatens their security; also from the countryside, where tradition is stronger than in the towns and the policy of restricting the import of foreign foodstuffs is attractive. The policy of protection for industry and the traditional association of the party with large armaments wins it the support of some industrial workers. Since the War the Conservatives have had a majority in the House of Commons except for nine months in 1924, and the period between June 1929 and November 1931; and even in the former period

they were the largest party. This fact takes away most of the force from the common criticism of political parties: "It's all the same whichever of them gets in". There have been no great changes in policy because the electorate has not expressed a wish for them.

#### THE LABOUR PARTY.

The Labour Party is the political expression of a working-class movement which can be seen developing from the time when the Industrial Revolution created large masses of urban workers, divorced from the occupation of land or ownership of means of production. This movement manifested itself in Trade Unions and in Co-operative Societies, and in the great Chartist agitation of the mid-19th century, which demanded universal male suffrage. But it was not until the franchise was extended in the late 19th century that an effective political party could arise. The Labour Party was formed in 1900, and from that date has grown rapidly; it emerged from the General Election of 1922 as the second largest party.

Labour advocates a Socialist policy. Its programme therefore contains two groups of measures; the former are intended to transform Britain from a Capitalist to a Socialist country, the latter to deal with the immediate alleviation of poverty and unemployment, for which the party consider Socialism the only permanent remedy. In the former group are proposals to socialise—i.e., to bring under the community's ownership and control—the land, the financial system, coal and power, and transport. The organisation suggested for these, and for industries later socialised provides for the workers in the industries to share in their management, subject to the Government's general plan of economic development. The latter group contains proposals for increased Old Age Pensions, and education, raising of wages and shortening of hours. Labour does not believe that the Conservatives can adequately extend the social services, because of the limitations of Capitalism. Since its programme would

involve much legislation, Labour proposes to speed up the procedure of Parliament and to abolish the House of Lords. In foreign affairs, also, there is a distinction between Labour's ultimate goal—a World Socialist Commonwealth—and the immediate policy. The latter involves first, strengthening the League of Nations so that the collective force of its members could be used against a nation breaking the peace; then a reduction of tariffs and other obstacles to trade which provoke international ill-will: these measures, it is hoped, would so far improve the situation that some measure of Disarmament would be possible. The Imperial policy of the Conservatives appears to Labour as an attempt to monopolise markets in a manner dangerous to peace; Labour's view of the Empire is that self-government should be extended as rapidly as possible to those territories which do not enjoy it, and that territories to which this treatment cannot be applied should be put under an international mandate.

Differences of opinion in the ranks of Labour arise from consideration of the speed with which Socialism can be realised. The Right Wing emphasise the social reforms in the programme, believing that progress with these will win increased support; the Left maintains that the socialisation of industries must be rapidly carried through if the social reforms are to be permanent.

Labour finds its supporters among wage-earners in the towns, and, to a much less degree, in the countryside. A number of middle-class people, who think that Capitalism's uncertainties are the real menace to them, also support Labour; and from all walks of life come persons who have adopted the Socialist view of society. The organisation of the party illustrates these facts; it is a Federation including Trade Unions, Socialist Societies such as the Fabian Society, and individual members. Its structure is more elaborate than that of the other parties, and the resolutions passed at its annual Conference, to which come delegates from all the affiliated bodies, determine its policy. The Co-operative Movement has a political organisation of its own which, in

alliance with Labour returns a small group of "Labour and Co-operative" M.P.s; in Parliament, these form one party with Labour.

Labour has not yet had a majority in the Commons, but has formed two Governments, one in 1924 and another from 1929 to 1931, when it was the largest party in the House. During the second period the great slump occurred and Labour had to choose between introducing Socialist remedies at the risk of defeat in the House and trying to administer a Capitalist system in which it did not believe. The latter course was taken and the resulting difficulties caused the Prime Minister, Mr. Ramsay MacDonald, to resign and form a Coalition with Conservatives, some Liberals, and a few who followed him from the Labour Party. These events were taken by some as proof of the need for a clear Labour majority to introduce Socialism, by others as proof of Labour's incompetence. The party suffered heavy losses in the 1931 Election and in 1935 only secured 154 seats.

#### RIGHT AND LEFT.

These two parties face each other as the chief parties of the Right and Left; that is, of reluctance, and enthusiasm for change, respectively. It is a feature of Right parties that their members hold together; as there is no intention of fundamental change there is less matter for argument, and the Right naturally attracts, in addition to keen and convinced supporters, those who, taking life as they find it, do not think very much about politics. The Left has to make its case for great change and, when it comes to framing a detailed statement, disagreement arises; further, if the Right has the addition of the unthinking, the Left draws those who, for a variety of reasons, are dissatisfied with things as they are. The Right is therefore liable to suffer from lack of vision, the Left from an over-abundance of ideas, of very varying usefulness, not easily arranged into an ordered programme.

To the left of Labour stands the small *Communist Party* which secured the return of one Member, Mr. Gallacher, in 1935.

The Communists advocate Socialism but believe that the conflict between classes is so acute that an attempt to introduce Socialism by democratic methods would be met by the use of force on the part of the rich. They therefore hold that an effective Socialist movement must prepare to meet force by force, and to establish a dictatorship of the working-class, until opposition is destroyed and democracy can be restored. Labour seems to them not to have understood the real nature of the class conflict, and they consider many of its leaders ineffective. Recently, however, they have sought affiliation to Labour; the proposal provoked considerable dispute between the Right and Left Wings of Labour, but was defeated, the majority holding that Labour could not associate with a party which envisaged the use of dictatorship.

The *Independent Labour Party* was once affiliated to the Labour Party but severed the connection after 1931. The party considers Labour to be insufficiently Left and the Communist party to be over-influenced by the wishes of the Government of the U.S.S.R. There are four I.L.P. Members of Parliament, representing divisions of Glasgow, where the party survives chiefly because of the popularity of its leader, Mr. Maxton.

#### THE LIBERAL PARTY.

Historically, the Liberals inherit the tradition of resistance to arbitrary Government which animated the 17th and 18th century Whigs. They were accordingly led to emphasise the authority of the people, and during the 19th century there is a gradual change from aristocratic Whig to democratic Liberal, working to secure the extension of the franchise. As opponents of governmental restraint they were attracted to *laissez-faire*, and in the mid-19th century represented the trading and manufacturing, as against the landed classes. The popular element in Liberalism, however, has caused the party to advocate social reforms which conflicted with pure *laissez-faire*. Dislike of oppression has shown itself, at different times, in Fox's opposition to Burke over the French Revolution, in Gladstone's efforts to solve the Irish problem, in

the sympathy shown to nations struggling for freedom, and in the desire to protect minorities.

To-day, Liberals consider that the Capitalist-Socialist issue is not as important as is often supposed. The Conservatives' fondness for aristocracy and for tariffs, and Labour's plans for State control all appear to Liberals as dangerous to the liberty of the individual which it is the historic duty of Liberals to preserve. While rejecting Socialism they advocate considerable reforms in Capitalism. They are prepared to socialise some industries if it can be proved that this would increase efficiency, but do not regard socialisation as essential for the proper arrangement of society. The dividing line between public and private enterprise has been shifted in the past and can be shifted again; it is a question of practicability and convenience, not of principle. Prominent members of the party have made detailed studies of industrial organisation in order to demonstrate the number of improvements which could be made without raising the main question at issue between Socialists and anti-Socialists. They further consider that social services could be extended beyond the limits which Conservatives think desirable, and they stress the need for improved housing and education. To the Liberal the Conservative appears too much under the influence of the rich, and therefore unwilling to help the mass of the people, while Labour is too much influenced by the Trade Unions, and led by its Socialist theory to ignore the reforms which are immediately practicable. Liberals claim that they, avoiding these defects, represent not a single class but the whole nation; not tied to a theory they can consider every proposal on its merits. They oppose the tariff policy of the Conservatives and on immediate problems in the Imperial and foreign field take a view very similar to that of Labour.

From 1906 till the outbreak of the War the Liberals ruled and achieved a large measure of social reform, notably social insurance and old age pensions, the memory of which still retains many supporters. During the War, one section of the party, under Mr.

Lloyd George, formed a Coalition with the Conservatives which lasted till 1922. The party was re-united in 1923 but found itself outstripped by Labour. In 1924 they suffered a severe defeat from which they have not recovered. At the 1931 crisis all, except a few under Mr. Lloyd George, joined the National Government, though many of these left it shortly afterwards. In 1935 there were returned 33 National (or Simonite) Liberals, led by Sir John Simon and supporting the Government: four Independent Liberals, led by Mr. Lloyd George: and the official Liberal Party of seventeen Members, led by Sir Archibald Sinclair.

The Party is supported by those of moderate incomes and by a lesser proportion of both the rich and the poor. In some districts there is a strong Liberal tradition, often associated with Non-conformity. It is probable that many people who hold Liberal ideas feel that they can now make them of more effect by supporting the Conservative or Labour Parties and bringing a Liberalising influence to bear on their policies. The Liberal Party claim that Proportional Representation would allow the strength of Liberal feeling in the country to be fairly expressed; but unless this reform is introduced, Parliaments like those elected in 1924 and 1929, when no party had a clear majority, will not be common in future.

#### THE PARTY SYSTEM.

It appears, then, that party politics in Britain are characterised by the existence of two great parties, rivals for Government, and a third of lesser, but considerable size. These parties have local organisations in nearly every constituency, responsible for choosing the candidates and conducting propaganda with assistance from a Central Office. Most of the agents in the constituencies and staff at the centre are paid full-time workers. Subscriptions from rich members form a considerable part of the funds among Conservatives, a less proportion among the Liberals and only a small sum for the Labour Party. These gifts are supplemented by small subscriptions from the rank and file,



the bulk of Labour's funds coming from those Trade Unionists who pay the "political levy" which makes them affiliated members of the Party. Much work, however, is done without payment; indeed, one of the admirable features of British politics is the large number of men and women who will do hard, and sometimes tedious work—canvassing, envelope-addressing, organising social activities—week after week, for no other reason than that they believe in their party's principles.

Those who complain that parties divide the nation urge that the ideal Government would combine the best men of all shades of opinion; the process of finding the highest common factor of agreement, by which parties themselves are made, would be extended till all could act together. Thus the strife of parties would vanish and citizens would work together in harmony for the common good. The same sentiment sometimes expresses itself more prosaically as a demand for "Business Government": the shareholders of a business do not arrange themselves in parties; why should citizens do so? To this criticism, the party programmes provide an answer; they are not lists of measures, each of which can be considered apart from the rest. Socialism, for example, may or may not be a practicable policy; what is certainly not practicable is to distribute wealth on Socialist principles while the ownership of land and industry remain as at present. The Conservative policy towards industries is based on the assumption that private persons will continue to control them. One who believes that private enterprise and private profit are essential to progress, and one who believes them to be the chief cause of our difficulties, cannot frame an agreed policy. An appeal to the disputants to "put country before party" begs the question, for each believes his policy to be the best for the country, and the greater his zeal for his country, the greater his anxiety to get that policy adopted. A Government formed from men of all parties will be subject to constant disagreement within itself; its policy will be vacillating, and, in the endeavour to please everyone, will please no one. Coherent and effective policy

can only come from a Government whose members are agreed on main principles—that is to say, who belong to one party. The members of such a Government might be lost in mutual admiration or encouraged by their majority to enact measures gratifying to their most extreme supporters, were it not for the constant criticism of the minority parties. The largest of these is known as His Majesty's Opposition, and the title indicates that Opposition as well as Government has a function in the Constitution. That function is to criticise the Government, to keep it from sloth and extremism and to put before the people an alternative policy so that, if they are dissatisfied, they can, without violent upheaval, change their Government at the next Election. The Opposition should not oppose every Government proposal, nor condemn the Government for not performing the impossible; but, as party differences are based on fundamental disagreement, there will not be many agreed topics. Since, in Britain, the people are free to vote the other way next time, there is a powerful check on merely factious obstruction—the knowledge, in the minds of the Opposition, that they may soon be the Government, and will have to justify their criticisms by doing better themselves. Responsible Opposition, of the kind required in Britain, demands considerable knowledge of facts and the Leader of the Opposition needs to maintain a kind of office, comparable to that of a Cabinet Minister, though on a smaller scale. In 1937 this need was recognised by the provision of a salary of £2,000 a year. The Leader of the Opposition does not thereby become a servant of the Government, but of the State and the people who compose it. It might well be argued that this salary should become, like that of a judge, a Consolidated Fund charge.

The demand for a Government which shall be “above party”, therefore, is often based on an imperfect understanding of facts. Sometimes, however, it is more sinister. The party in power may be unwilling to face criticism, and, relying on the majority in the country which it has at the moment, may appeal to the people in such terms as these: “We have a great work to do; let us have

done with the strife of parties and get a single united people behind the Government; then we can carry through our policy". If the majority is large enough, if the appeal is made with sufficient excitement of national vanity, and if the Government has its hand on the armed forces, then the minority parties can be destroyed. But the resultant Government is not above party; it is a party Government, carrying out a party policy without criticism to make it careful or opposition to check its extremists. The dictatorships of the present day provide a striking illustration. The Opposition is driven from Constitutional to underground methods; and the Government, which would not meet criticism with reasoned defence, must combat conspiracy with secret police, concentration camps, executions and the other apparatus of tyranny.

The call for "Business Government" likewise springs either from misunderstanding or from a desire for dictatorship. The object of a Board of Directors is to make profit for those who own the business. The citizens of Britain, however, are not owners of Britain, and a Government whose sole object was to benefit owners of property would be a party Government of the worst kind. It is arguable that if the Socialist conception of a classless society were realised, Government would be chiefly occupied in business administration of the people's property. Such is the form of Government envisaged by the Socialist William Morris in his *News from Nowhere*, and by Stalin for the U.S.S.R. under its new Constitution. The U.S.S.R., however, has not yet fully realised either Socialism or democracy, and it is one of the most disputed questions of politics whether a classless society can be realised at all.

Coalitions between parties occur when great events cause the people to think afresh and to discover that the old issues are out of date. The War, and the post-War problems leading up to the crisis of 1931 caused a fuller consideration of the Capitalism-Socialism issue. Of the questions which had divided Conservatives and Liberals—Ireland, the House of Lords, Free Trade, Social

Insurance—some had been settled, while others appeared as aspects of the new problem. A series of Coalitions weakened the Liberal Party and made Labour the chief opponent of the Conservatives. Coalitions do not destroy the party system but give a new alignment of parties in accord with the new problems demanding solution.

The criticisms from the opposite angle, that party politics suppress individuality in politicians, are more useful. Though they do not constitute a complete case against the party system, they draw attention to certain dangers of which the party politician should be forewarned. First, the presence in the House of Commons of a majority supporting the Government means that ill-considered actions and unwise clauses in Bills can be defended without argument, by the simple use of voting power. The private Member on the Government benches may admit to himself that he does not like this piece of policy; that the Opposition's arguments are unanswerable; that his constituents are quite justified in writing indignant letters. But what if the Whips say, "The Government makes this a matter of confidence; if it is defeated there will be an Election"? The Member, at the worst, does not want to risk his own seat; more creditably, he may feel that the Government's policy is so much better than the Opposition's that he ought not to endanger it for the sake of one point. The Government majority is particularly objectionable to the Opposition when it is used to apply one of the forms of Closure. Yet if the Government had not this weapon it could not know from week to week, how long it would be in power; without the Closure it could plan no time-table of work, as the Labour Government of 1929-31 discovered. Such inefficiency of Government provokes contempt for Parliament and for free discussion. The ordinary Members can make their voices heard if they insist on frequent meetings of their Parliamentary Party, where by discussion and vote the party's immediate policy and tactics can be determined; then the action enforced by the Whips will be that which a majority of the party has approved. If the

Members act thus they are not the sheep to whom critics of Party Government liken them; they are people who, faced with the necessity of united action, impose the requisite discipline upon themselves.

Secondly, the loyalty of party supporters may become a disease. They hesitate to admit that their party has ever made, or might make, a mistake, lest opponents should seize on the admission and magnify it: for the same reason they will not allow any merits to their opponents. Should this disease become far advanced politics degenerate into factiousness and the ordinary citizen turns away in disgust. But the elector has the remedy in his own hands: moderate attention to public affairs will show him that no party is infallible, and, by his attitude at meetings and his reception of canvassers, he can show that he does not care for absurd partisanship. If the elector does this, the politician will soon realise that frankness and reason are required.

Thirdly, there is a neglect of certain questions because they are not party matters. Reform of the judicial system, marriage laws, control of amusements, are oft-quoted examples. Independent Members who might raise these questions are few, because it is difficult to fight an Election without the help of a party organisation. Yet the presence of some Independents in every Parliament shows that the British system is not wholly defective in this respect. The very difficulty of their election secures that, save for an occasional crank, they are people of outstanding ability; but they are the tonic of Parliamentarism, not its daily food. If it were easier to be elected as an Independent, the quality of Independent Members would decline and the same defects would appear as in a Parliament composed of many small parties; the Government would be unstable, and the Independents, conscious that they could not be called upon to form a Government, would be irresponsible critics.

The Member has been described as the link between his constituents and the Government; the local party organisation is the link between the Member and his constituents. He cannot

return to them for instructions on every issue; while they have the right to state what general principles they approve, it is his business to apply the principles to the day-to-day problems arising in the House. The party programmes provide the general statements of principle between which electors can choose. The elector may complain that he does not fully agree with any party programme. But no one can expect to have all his own way; it is open to everyone to join the party in which he finds most to approve, and to take his share, with other party members, in the framing of policy.

In summary, the party system has the overwhelming merit of permitting both the Government to be strong and criticism of it to be vigorous; of allowing the majority to prevail and all sections to be heard; of providing a peaceable method for change of Government. While the defects of the system are undeniable, they can be lessened if the rank and file of party members become students of policy and not mere partisans, and if the elector equips himself with knowledge.

#### BOOKS:

- \*BALDWIN. *Addresses on England.*
- CECIL. *Conservatism.*
- ATTLEE. *The Labour Party in Perspective.*
- MUIR. *The Liberal Way.*
- PIGOU. *Capitalism v. Socialism.*
- STRACHEY. *Theory and Practice of Socialism.*

## CHAPTER XIV

# GOVERNMENT BY THE PEOPLE

Democracy  
Effects of Democracy  
Growth of Fascism  
Policy of Fascism  
Communism  
Fascism and Communism Contrasted  
Conclusion

Now that the survey of Legislature and Central Executive is complete, the essential nature of British Government appears. The source of the power wielded by the King and his Ministers has been traced to Parliament and thence to the people. Britain is therefore classed among the democracies of the world, and so distinguished from the Communist U.S.S.R., the great Fascist States, Germany and Italy, and a number of smaller States where various forms of Government prevail which the people cannot criticise or change at will. For the proper understanding of British democracy, a digression of some length will be necessary, comparing the democratic, Fascist and Communist philosophies. What is the exact nature of democracy? Is it fully realised in Britain? What explains the recent rise of anti-democratic Governments and ideas?

### DEMOCRACY.

There are five signs by which a democracy can be recognised. *First*, that all adults should have an equal share in choosing the people who are to carry on the Government. The power of the House of Lords and the unequal size of Parliamentary

constituencies cause Britain to fall short of this ideal; but the former is not a conclusive or permanent check to democracy and the latter is such a defect as must creep in in course of time, and can be removed. *Second*, that a large number of citizens should take part in the actual work of Government. If they do not do this they will not so much govern themselves as choose between one set of masters and another; they will be unacquainted with the problems of Government, and their judgment of those who do govern, being uninformed, will be ineffective. The British Cabinet and Parliament cannot contain more than a tiny fraction of the citizens; but many more serve on local authorities and acquire valuable experience. In voluntary associations—Trade Unions, Co-operatives, Educational and Housing Associations, and political parties, the citizen can learn how to make decisions, administer property and discover how some, at least, of the laws of his country work, and help to get them changed. The combined effect of these opportunities is considerable, and in this respect Britain does well, in view of the fact that she is a great State where the direct democracy of small Swiss cantons is impossible. *Third*, the will of the majority, acting through the Government, should be obeyed. Government by consent cannot mean that all citizens should approve of all acts of Government, and if the dissatisfied do not obey there will be no Government at all. While, therefore, a democratic Government must not use force as a substitute for consent, it has both a right and a duty to meet any defiance of its authority with all the force at its command. *Fourth*, the Government must allow all its subjects to criticise its acts; it must give regular opportunities for the election of a new Government, and freedom to all who wish to conduct propaganda and build up organisations which have as their object the peaceful conversion of opinion towards a change of Government. Minorities justifiably claim these rights in return for their obedience: if the rights are not granted there is no way of changing the Government peaceably, and, even if it represents the people at first, there is no guarantee that it will continue to



do so. It may well be that Hitler's Government is approved by a majority of Germans, but, since it does not allow criticism, it is not a democracy, nor can there be any fair test of its popularity. The present working of the British Constitution satisfies both this point and the preceding; it secures a Government which commands obedience but submits itself periodically to the people's judgment. *Fifth*, the economic and social structure must be such as to allow the previous conditions to be realised in fact as they are stated in law. The effect of economic and social factors on British politics has been noticed. The educational system, the method of recruitment for the higher ranks of the Civil Service and the Armed Forces, the influence of money at elections, combine to put a great proportion of power in the hands of a small section of the people. This "ruling class" could not prevent the election of a Government which would strike at their privileges, though they could obstruct its policy. As, however, the electorate have not yet made such a choice, the exact extent of economic checks to democracy in Britain cannot be measured.

#### EFFECTS OF DEMOCRACY.

Democracy can be considered first as a method of Government—the method of consent, majority rule and free discussion. But the use of the democratic method creates something else—a democratic atmosphere; persuasion, argument, the power to present a convincing case are esteemed more highly than a display of force or the dictator's ability to make impassioned speeches where no one can heckle or contradict. This atmosphere of discussion is the most important of all the characteristics of democracy because it breeds among citizens respect for one another's opinions. 18th century Britain, for all its restricted franchise, had this mark of democracy. Government was in the hands of a few, but they conducted it by discussion amongst themselves in Parliament; and from this centre ideas and argument spread to the unenfranchised. For this reason it was the easier to extend the franchise in the 19th century; those who

received the vote took up a task with which popular discussion had already made them familiar.

The first merit of democracy is, accordingly, its civilising influence on those who practise it. The habit of discussion, developed in politics, extends to all activities; new ideas in sciences and arts can receive examination. The dictator, who cannot hand over power to another party if opinion changes, must see to it that opinion does not change. If, like Hitler, he has climbed to power by firing his people with the idea of racial purity and superiority to other nations, then any research into anthropology which suggests that there is no such thing as racial purity must be suppressed. If Government policy is based, as in the U.S.S.R., on a particular view of human history, then any discoveries about the past which cannot be fitted into that view must be thrust aside. The issue between dictatorship and democracy cannot be confined to politics; in every sphere of intellectual activity the question arises: "What is the purpose of this activity? Is it to discover the truth or to find evidence in support of the view already held by the Government?" Accordingly, dictatorship stretches its control over art, science and religion. As men continually underfed lose appetite so nations shut off from free thought lose the desire for it, and the dictator's task becomes easier and the rate of progress less. Such a tyranny, if not assaulted from without, can, like the Byzantine Empire, last for centuries without adding anything to human happiness or knowledge.

No Dictatorship, however, can alter the truth. If, for example, persecuting Jews does not make a nation better, the dictatorship which practises it will sooner or later face a disillusioned people who, having no other method of expression, must attempt revolt. Dictatorships, lacking the check of criticism, are likely not only to make mistakes, but to persist in them till they bring disaster. Democracy not only allows entry to new ideas but enables them, when they have convinced a majority, to inspire Government policy. Peaceful change is thus the second merit of democracy.

But discussion cannot find the truth unless the disputants have access to facts. In Britain, defenders and critics of the Government can use statistics of undisputed accuracy concerning trade, employment, taxation and the public welfare. If—and it is in Britain a fantastic supposition—the Government attempted to intimidate a Civil Servant into falsifying the figures, he has only to disclose the fact and the resulting scandal would defeat the attempt. The servant of a dictator must, for the sake of his employment or even his life, produce such statistics as his master approves. Statistics can be misinterpreted or wrongly used in any argument under any system; but while the statistics of a democracy are in themselves reliable, those of a dictatorship are not. This third merit, superior honesty, appears also in the handling of money and appointments. Corruption and embezzlement of public funds together form an evil that has plagued all Governments from time immemorial; it is denounced in the Scriptures and those who practise it occupy a special place in Dante's *Inferno*. Aspirants to dictatorship, like the Belgian Rexists, declare it to be the chief feature of Parliamentary life; the whispered jokes with which a dictator's subjects console themselves, impute it to his officials. Democracy, however, has an antidote, the Opposition, to whom the discovery of bribery or false accounts will be a powerful weapon. Dictatorship can always prevent open scandal by getting rid of those who ask awkward questions, or by veiling its finances in secret; but for this very reason, once corruption enters it is less easily rooted out. The immediate cause of the overthrow of the German democracy was the desire of Prussian landowners to prevent the exposure of their embezzlements.

Financial dishonesty is usually committed by underlings; it does not appear to be common among the chief statesmen of democracies nor among dictators themselves, who seek power rather than luxury. But every dictator must appoint subordinates who know that personal loyalty will cover a multitude of sins; the local boss, who can reply to critics by accusing them of

treason, is a common feature of dictatorships. In this connection France is an interesting example: the administrative system still bears the stamp of the Napoleonic dictatorship, and its officials have large and insufficiently supervised powers of patronage. The corruption which this breeds is exposed in periodic scandals because the main structure of the Government is democratic.

For the party in power in a democracy to give jobs to its own supporters, in return for their loyalty, is corruption. In dictatorships it is an invariable and inevitable practice; for no position of importance can be entrusted to one whose faith in the ruling party is not absolute. Impartiality in the Civil Service is not enough; a judge who tries accused persons according to the evidence rather than to the wishes of the Government, will not serve. The ruling party is assumed to be the State itself and the first qualification for any branch of public service is not competence and honesty, but the profession of a particular set of political opinions. The process is known in Germany as *Gleichschaltung*, unifying the State: so this form of corruption is not removed by a dictatorship but re-christened.

By no means all democracies are as free from corruption as Britain; her unusually high standard is due to two facts: first, that the financial system is the product of a struggle for Parliamentary Government; second, that the 19th century enfranchisement of the middle classes strengthened the demand for economical administration. Where the evolution of Government has been different the results have not always been so satisfactory. But the general conclusion remains; while all Governments are liable to corruption, democracies possess weapons for fighting it which are denied to dictatorships. Corruption is widespread in U.S.A. politics; but the democratic weapons have, in some districts, been successfully used against it. In Germany, the absence of opposition enables some officials of the Nazi Party to use their position to enrich themselves.

The fourth merit of a democracy can be more easily observed

in practice than defined in words. It springs from the fact that democratic Governments, unlike dictatorships, have a moral claim on the allegiance of their subjects. To the eternal question of politics, "Why should I obey?" the democratic Government can reply, "Because we are your Government; we cannot please everyone, but we please the majority; if we do not please you, you can set to work to alter the majority's opinion; in the meantime you should obey us, unless you make the claim that your wishes are more important than those of anyone else—a claim which you cannot expect other people to admit". The dictator's answer is not based on argument, but on assertion, "Obedience to me is the duty of a citizen; the Leader knows best; if you do not agree, you are no true citizen". This attitude is well illustrated by Hitler's demand, at the 1937 Nazi Party Congress, for "blind obedience". The necessary blindness can be secured by control of Press, wireless and every method of communication. Since a democracy is not obliged to deprive its people of the use of their faculties, the relations between Government and people, and between one citizen and another, are happier. They can argue without fighting; there is no need of spies or censorship. The higher civilisation of a democracy is manifested, not only in the intellectual sphere but in the friendliness of everyday relations.

#### GROWTH OF FASCISM.

Yet democracy has not been the commonest form of Government. Government is older than reason, and it is only as reason is applied to politics that the merits of democracy appear. In the 19th century it spread rapidly, the Parliamentary system of Great Britain being widely used as a model. The War was won by democratic powers, and by 1919 the forms of democracy were established in all European countries except Russia. But before long these forms had been rendered meaningless in several of the smaller States, where military leaders had seized power, often with the help of the old ruling class. In 1922 Mussolini

came to power in Italy and erected the Fascist<sup>1</sup> form of Government which both destroyed democracy in fact and openly challenged its principles. The very similar "National-Socialism" of Hitler received great impetus in the slump years of 1930-32, and obtained power in 1933.

Fascism arises from distress and disappointment. The Italians found that they had gained little from being on the winning side in the War; the Germans, that the democratic Republic established in 1918 had not succeeded in throwing off the bonds of the Treaty of Versailles, nor in solving the economic problems of the slump. When such situations arise, and many sections—wage-earners, middle-class, ex-soldiers—face unemployment and poverty, the policy of the Government must be drastic, and show evidence of a determination to deal rapidly and boldly with the difficulties. But while all are agreed that policy must be drastic, there is disagreement about its direction. Some demand a rapid transition to Socialism, others a reduction of taxes on large incomes, others the expulsion of Jews, or the exclusion of women from every employment outside the home. Everyone has a grievance which affects him personally, and sees in its removal the cure for the nation's ills. The conflict of parties becomes keener, violence is used, and here democracy is put to its test. The right and duty of a democratic Government to suppress disorder has been noticed; in times of stress it is justified in adopting measures, such as the prohibition of provocative displays of party strength, which in normal times would be unnecessary. Italy and Germany, in common with many other countries, had but slight experience of democracy, and the democratic respect for the lives and opinions of other citizens had not developed. Germany had adopted a Constitution which contained two opposing defects: under its usual working the

<sup>1</sup> The word *Fascio* (group or bundle) was the name used by groups of Mussolini's followers when he was striving for power. It refers also to the *fascies* carried by lictors attending on magistrates in Ancient Rome—bundles of rods encircling an axe. They symbolised Roman unity and power and served the practical purposes of punishment and execution.

Government, hampered by a multiplicity of parties, could not act with speed and decision; when, as a remedy, special powers were invoked, the Executive dwarfed the rest of the Constitution and made the democratic rights of the people meaningless. Everywhere, the War had familiarised the use of violence. Out of the confusion the Fascists emerged victorious; they perceived, before others, that victory would go to those most prepared to use force; their propaganda won support by heaping everyone's discontents together and blaming them on "the system"—a vague term, generally denoting the Parliamentary method of Government, and, in Germany, associated with the Jews. The Fascists also received financial help from the wealthy, who judged them to be a bulwark against Socialism.

Thus the world learnt, not that democracy was unworkable—for it weathered the storm in Western Europe and Czechoslovakia—but that it could not be secured simply by laying down a democratic Constitution in law. The principle that the Government alone may use force, and then only to preserve the law, must be respected; the system of parties must permit the rise, when great problems threaten, of a Government able to act decisively; control by the people must mean choice and criticism of the Government, not preventing it from doing its work. It is when these conditions are not fulfilled that the cry for order becomes irresistible and the claims of liberty are forgotten. The chief count on which Fascists indict democracy is that freedom means obstruction, delay and chaos. That this is not true of democracy as a whole is proved by its persistence both in Britain and elsewhere; but the charge is true enough where the forms of democracy are introduced without consideration of the conditions of its survival.

#### POLICY OF FASCISM.

Fascism had shown that it could seize power; the next task was to form its policy and try to solve the problems which had baffled democratic Governments. The first idea in Fascism is

that of the Leader; against the emphasis laid by Socialists on the influence of economic forces and classes, Fascism stresses the idea of the "hero", the great man who moulds history. All authority springs from the Leader; he may claim to represent the people's will, and when he first comes to power this may be true; but he does not allow it to be put to the test. Mussolini has held occasional elections and Hitler has submitted some of his actions to the judgment of a plebiscite. This device, however, is only advertisement: those who might wish to vote NO cannot conduct propaganda; the duty of voting YES is plainly intimated; and no one supposes that a majority against the dictator would lead to his resignation. The voter has only a choice between the dictator and nothing. The dictator receives a huge majority to which no one outside his jurisdiction attaches importance. The complete and irresponsible power of the dictator should be remembered, because the claim is sometimes made that he represents the people far more truly than any democratic Government; but the only way to test this assertion is to allow free discussion, which dictatorship repudiates. Mussolini, Hitler, and a British Cabinet with a Parliamentary majority, all wield enormous powers; but only the last allows the people to pronounce considered judgment. Fascists claim that the "Leadership Principle" secures that Government is carried on by those best fitted for it. Whereas, in a democracy, persons may rise to power by the use of those arts which charm a meeting and win votes, the Leader can select on grounds of ability. It is assumed that the Leader will not be moved by flattery and that his judgment will be right; yet Leaders rise to power by demagoguery, and in the speeches which they and their subordinates make, flattery and emotional assertion take the place of argument. Passion, determination, ruthlessness, and a keen eye for the opponent's weaknesses are the qualities which the Fascist Leader must possess: administrative ability and wide knowledge, though desirable, and certainly present in Mussolini, are not essential.

This exaltation of an individual causes Fascism to take different



forms according to the personality of the Dictator; but certain common elements can be discerned. The plan of a Corporate State is used; employers and employed in each industry are grouped together and elect such representatives as the ruling party approves. Thus Capital and Labour are brought under the dictator's control. To the former a policy of "controlled Capitalism" is applied. Private persons still own industry and draw profits, but they may be required to invest all but a fixed percentage in the ways required by the Government. Introduction of new machinery, control of staff, hours and wages are also liable to State regulation: strikes and lock-outs are equally forbidden. In Germany the drive for re-armament has caused this control to be extended further than in other Fascist States. The worker also lives a regulated life; the social services, particularly those relating to the family, are the object of special attention; leisure time activity is organised; compulsory work in labour camps is adopted as a remedy for unemployment.

Discipline is thus the watchword of Fascism. Ruling the masses is the privilege of those who enjoy the dictator's approval and confidence. Prominent among these are the great industrialists, so that Fascism is properly regarded as a form of Capitalism, though very different from the "Liberal Capitalism" of Britain. Now discipline is not an end in itself; there must be some purpose for which it is imposed. This leads to the last element in Fascism, in the light of which all the others must be understood. The purpose of the national discipline is the glory of the State. To democrats the State is an organisation in which individuals take part, using it to promote their own and one another's happiness. To Fascists the State is, in Mussolini's words, a "spiritual entity"; it does not exist for individuals, but they for it. Further, the State is a National State, independent of other nations and seeking its glory sometimes at their expense. While Mussolini and Hitler have frequently stated that they do not desire to disturb the peace at this or that particular juncture, both maintain that war is in itself desirable and

beneficial to mankind. This doctrine suits the needs of Fascist States. Italy has a comparatively small Empire, Germany has none; the doctrine of expansion by war follows naturally. The glory of the State expresses itself in great public works for the relief of unemployment, and where these are not enough, armament programmes supply the deficiency. The worship of the State finds practical expression in an attempt to make the nation economically self-sufficient; the advantages of international trade are abandoned in the interest of military security. The people give up their liberty and sacrifice their standard of life and receive glory in return. The chief cause of Hitler's enormous popularity is that he has made Germany a nation to be feared. Democracy has here another lesson to learn. If the States of the world insist on complete Sovereignty and recognise no law but their own wishes, then they accept the idea of violence. Those States which are, at any given time, victorious, may like to forget this; but the defeated and disappointed, seeing that violence can prevail, pursue it and make it the ruling principle of their Governments. Democracy and the civilised way of life which it creates can continue only if international law is made a reality.

Fascist ideas have spread outside Italy and Germany. They flourish most where economic problems are acute and Constitutions are so planned as to reduce Government to impotence in the name of liberty. It is not surprising that Fascism has made small progress in Britain: the standard of life, though far from satisfactory, is among the highest in the world; the claim that British democracy means impotence and chaos is demonstrably untrue; the British having been a powerful and united nation for centuries, take their greatness for granted and are less impressed by the appeal for glory. The British Union of Fascists conducts much propaganda but has not yet contested any Parliamentary seats; the item in its policy which has had most effect on public life is hostility to the Jews. There were unsuccessful Fascist candidatures at the 1937 London County Council and Metro-

politan Borough Council Elections in divisions of East London where the Jewish problem is acute. A great slump, a stupid Government and the emergence of a leader with Hitler's or Mussolini's ability to take advantage of the situation—should these three coincide at some future time, Fascism could flourish in Britain.

#### COMMUNISM.

While Fascism grew in Central Europe, Communism increased its strength in Russia. In 1917 the corrupt Government of the Tsar fell. Kerensky, who succeeded to power, considered the introduction of the forms of democracy, but made the mistake of continuing Russia's participation in the Great War. The Russian, tired of fighting with inadequate equipment for a cause in which he did not believe, wanted peace and the expropriation of landlords. The Bolsheviks,<sup>1</sup> led by Lenin, secured power in November, 1917, by promising these things, and maintained it by achieving them. The struggle for power, in which the anti-Bolsheviks were helped by foreign expeditionary forces, left Russia in chaos and poverty. Out of this the victorious Communists proceeded to build a Socialist State. The need to conciliate merchants and wealthier peasants led Lenin in 1923 to adopt a New Economic Policy which, while preserving the main structure of Socialism, allowed some scope for private profit. This policy was not intended to be permanent, and under the guidance of Stalin, who rose to power after Lenin's death in 1924, the extent of private enterprise was much reduced, and from 1928 onwards a Socialist economic policy was embodied in a series of Five Year Plans.

The general doctrines of Socialism have already been explained. Communists base their faith in Socialism on the Materialist

<sup>1</sup> The word means Majority Party. It was adopted in 1903 when the Russian Social-Democratic Party split into two sections, Bolshevik and Menshevik (Minority). The former insisted that the right policy was to form a highly-organised Party to seize power when Tsarism should collapse. The name Bolshevik is not widely used in Russia to-day, the ruling party calling itself the Communist Party of the Soviet Union.

Conception of History, expounded by Karl Marx. According to this view, the fundamental fact in human history is the series of conflicts for ownership of the means of production. As new methods of production have been invented, new classes have risen to power and altered the form of society both for their own advantage and so that the new methods can be used to the full. Merchants and industrialists have overthrown feudal landlords; it now remains for the proletariat, the class of propertyless workers, to overthrow the capitalist. Communists claim that the development of science, art, and all human activities, can only be fully understood as aspects of the class struggle; that the struggle has always been violent in the past, and the proletariat will therefore have to use force and establish a dictatorship in order to destroy the power of the class which it has supplanted. In the U.S.S.R. this dictatorship is exercised by the Communist Party through the Soviets—councils elected for every village and town and for the whole Union. No party but the Communist Party may exist; the citizen who wishes to join it must accept and understand Communist teaching and be approved by those who are already members. The presence of party members at every strategic point, controlling the armed forces, industry, agriculture and trade, ensures that the policy chosen by the party prevails. Within the party, Stalin, as General Secretary, wields enormous influence: although the exaltation of one man is not part of Communist doctrine, in practice Stalin's power is probably no less than Mussolini's or Hitler's.

#### FASCISM AND COMMUNISM CONTRASTED.

Fascism and Communism are thus both dictatorships, and the arguments advanced against dictatorship may be applied to both systems. They present, however, important points of difference. Fascism maintains private ownership of the sources of wealth, and private profit; Communism does not. Fascism envisages a State composed of different classes, held together by the spirit of national unity; Communism plans a classless

society. To the Fascist the National State is the supreme political unit, maintaining its virility by rivalry with other such States; to the Communist the real division of mankind is not into nations but into classes, and he expects the classless society, which is to end this division, to become international and world-wide. Fascists and Communists alike show unbounded enthusiasm; but the former is inspired by faith in his Leader and his State, the latter by conviction that the victory of his cause is a historical necessity. Finally, Fascism accepts dictatorship as a permanent form of Government; Communism thinks it a temporary expedient while the new order is being established. Communists push this claim further; they hold that a Capitalist democracy, such as prevails in Britain, is but the shadow of real democracy, because of the inequalities of wealth, power and opportunity between citizens; and that they, by removing these inequalities, are not destroying democracy but creating it.

If indeed the dictatorship be only temporary, the difference between Communism and democracy would be much less; for democracies can, without abandoning their principles, give the Government supreme power for a time, when it has to face foreign or civil war, or both, as Russia faced them after 1917. What signs, then, are there that the dictatorship in the U.S.S.R. is disappearing? Certainly, a Constitution has been established, providing for universal and secret voting, and, in Stalin's phrase, "whatever is best in western democracies"; discussion of some questions—e.g., the efficiency of this or that factory, or the marriage laws—is allowed and encouraged. But the great question 'Is Socialism a good system?' may not be discussed. The policy of the Communist Party is rigidly enforced; against its opponents are arrayed the secret police and the penalties of exile and death;

"The same arts that did gain  
A power, must it maintain."

Any Government which deals with its opponents by killing them turns the friends and relatives of its victims into implacable

enemies, and, for its own safety, must continue on the path of violence. The facts themselves will decide the future of the U.S.S.R. If Socialism proves superior to Capitalism, the progress to democracy is assured; if Socialism proves unworkable and the standard of life falls, then the Soviet Government must counteract disaffection by increasing the rigour of tyranny.

Meanwhile the mutual hostility of Communism and Fascism brings out the worst features in both. Throughout Europe and beyond, both spring from the same causes—economic distress and Governmental incompetence. If the economic policy of one is right, the other is doomed to fail. Each can attribute its own misfortunes to the wickedness of its rival's spies and agents. Each accuses the other of preparing war and declares itself obliged to arm in its own defence; and military necessity becomes the pretext for tyranny.

#### CONCLUSION.

The instinct of many people in Britain is to dismiss both Communism and Fascism as excesses to which foreigners are prone, but from which the British, and such foreigners as have the good fortune to resemble them most closely, are delivered by the excellence of their Constitution and inherent love of moderate views. This judgment is incomplete; the British Constitution is admirable but not perfect, and its chief excellence is that it permits itself to be changed; if it is worshipped in silence and not subjected to study, use and adaptation, it loses its virtue. The moderation of British politics is not an unchangeable law of Nature but the product of comparative prosperity. The policies of the dictatorships, particularly their military preparations and restrictions of trade, make the economic and political problems of the whole world more difficult. Peoples, therefore, who wish to keep the democratic form of Government must increase their study of these problems; whatever is merely obstructive in the Constitution must be pruned away; the causes of social injustice must be removed. For these tasks, the people

must equip themselves with an education which, intellectually, aids sound judgment, and, morally, promotes an interest in and respect for one's fellow-citizens.

Nothing in the record of dictatorship shakes the claim of democracy to be the system which is least liable to abuse, most capable of adaptation to new needs, most stimulating to knowledge, most favourable to happiness. These advantages, however, are to be enjoyed only by those who have the courage and energy to undertake the task of governing themselves. For those to whom this effort seems too much, the rods and the axe are more appropriate.

#### BOOKS:

\*BASSETT. *Essentials of Parliamentary Democracy.*

\*SIR ERNEST SIMON AND OTHERS. *Constructive Democracy.*

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MUSSOLINI. *Political and Social Doctrines of Fascism.*

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# PART III

## THE JUDICATURE

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### CHAPTER XV

## LAW AND THE COURTS

Kinds of Law  
The Magistrates' Court: Summary Jurisdiction  
Quarter Sessions  
County Court  
Coroners' Courts  
The High Court of Justice  
Procedure in the High Court  
Appeals

The previous part of this book ended with the defence of democracy. The maintenance of democracy must depend in a large measure on the just and efficient working of the courts of law. It is to the actions of these courts that the people look for the restraint of those who interfere with the rights of their fellow citizens. The courts by declaring and applying the law make its provisions known to the people so that they are subject not to the will of an arbitrary Government, but to a known and accepted set of rules. Finally it is an essential of freedom that the force necessary for Government should be subordinate to law; but the law itself is only a set of rules; it can have effect only through the persons who are set in authority in the courts. The purpose, then, of this chapter and the next is to examine the constitution and working of these courts.

#### KINDS OF LAW.

There are in England<sup>1</sup> three main kinds of law: Common

<sup>1</sup> The law of Scotland differs both in principles and procedure: This chapter deals with English Law only.



Law, arising from ancient custom, Statute Law composed from Acts of Parliament, and Equity, whose origins will be described later. The King's judges of Norman and Plantagenet times found that the people expected justice to conform to certain traditions which varied from one part of the country to another; it was the judges' task to build out of these traditions a system of rules which would be common to the whole country. This Common Law is nowhere written down as Acts of Parliament are; but in the course of years a vast number of cases have been settled, according to the principles of Common Law, and the judges' decisions are recorded; from these decisions the Common Law may be deduced and applied to future cases. Further, Acts of Parliament do not always succeed in saying clearly what they mean; and in doubtful cases the Courts must decide the meaning of the Act as best they can. He who wishes, therefore, to understand English Law must know not only the Statutes and the Common Law, but the decisions given in "Leading Cases". So it is sometimes said that there is another type of law, "judge-made law", though lawyers insist that they do not make the law, but only declare and explain it. Yet the phrase "judge-made law" is not wholly misleading; it is an invariable rule that a decision given by a judge as to what the Common Law is or what the Statutes mean, shall be accepted as a rule to be applied in all similar cases, until it is set aside by a judge of a higher court, or until a new Act of Parliament settles the matter beyond doubt. Thus in 1901 the Law Lords, in accordance with an established legal principle, decided in the *Taff Vale* case that a Trade Union could be compelled to pay damages out of its funds for unlawful acts committed by some of its servants even though it had strenuously opposed such acts. Few people had realised that the Statutes about Trade Unionism would have this effect; certainly Parliament had not so intended. The highest court in the land, however, had decided, and their decision was, in fact, part of the law until in 1906 Parliament, by the Trade Disputes Act, expressed its meaning clearly. It should be noticed

that the courts do not concern themselves with what Parliament meant to say; they look simply at the words of the Statute, and interpret them in the light of common sense and previous legal decisions. The advantage claimed for this system is that it keeps the courts to their own rules, free from controversies as to what this or that political party in power had in mind. If some of the results are unexpected, that, from the courts' point of view, is a lesson to Parliament to express itself more clearly. The courts can also claim that they are helping to enforce the Sovereignty of Parliament; for by interpreting what the Act says, whether it says it ill or well, they create a situation in which anomalies can be rectified only by Acts of Parliament. For the Statute Law has the final voice; whatever the Common Law, or past Statutes, or decisions based on them, may have prescribed, that can be altered by a new Statute. By this supremacy of Statutes, English Law, though springing from different sources, is fashioned into one system to be administered by all the courts.

Statutes have exceptional importance because they are the part of the law through which changes can be made. The rules of Common Law and of Equity were fashioned by a propertied class and have left the mark of their origin on the whole legal system. It is by the enactment of new Statutes, and the repealing of old, that the law can be changed from an instrument of class rule into the common protection of the whole people.

The division into Statute and Common Law is historical. Two other classifications are required before the arrangement of courts can be properly understood. First, there is the division into civil and criminal law. All breaches of the law involve injury or danger of injury to certain individuals; indeed if an action did not involve this, there would be no need to make it illegal. In some instances this injury to individuals is the total of the offence. If I write in a newspaper that so-and-so is unfit for the position he holds, I have done him an injury, he will bring a civil action against me for libel, and I may have to pay damages to him; the law considers that when this has been done his rights

are sufficiently protected.<sup>1</sup> But if I steal his money, the law considers that I have done something which sets a dangerous example; by challenging the right of property, I have injured not only so-and-so, but everyone. I shall be subjected to a criminal prosecution; the money, if it can be found, will be returned to its owner, but the State, representing everybody, will inflict a further penalty. Apparently the law, unlike Shakespeare, regards stealing a purse as more serious than filching a good name; it acts on the assumption that more people are likely to be tempted by example to larceny than to libel. Injuries, therefore, become crimes when they are of such character as to make probable a general disregard of other people's rights, and the outraged party is not merely the immediate victim, but the State itself. Some crimes have no immediate victim; the man who disregards the traffic lights may be lucky enough not to injure anyone directly, but his action is criminal because it might easily have caused injury.

Secondly, both civil and criminal matters can be conveniently divided into those of greater and less importance, which are dealt with by the higher and lower courts respectively.

#### THE MAGISTRATES' COURT—SUMMARY JURISDICTION.

The handling of lesser criminal offences rests to a large extent with the magistrates called Justices of the Peace. This office is over six hundred years old, and until the 19th century the Justices were responsible, not only for their judicial tasks, but for much of the work now performed by local authorities. They are appointed by the Lord Chancellor<sup>2</sup> on the recommendation of the Lord Lieutenants of the counties; the latter, however, are guided by the local Advisory Committees, which, under the Lord Chancellor are the real appointers of J.P.s. The local political party organisations are represented on the committees, and an attempt is made to maintain some proportion

<sup>1</sup> In certain circumstances libel can be criminal. See Ch. XVI.

<sup>2</sup> In Lancashire by the Chancellor of the Duchy. See Ch. IV

between the number of J.P.s from each party. This method is not altogether satisfactory, as an able man may be excluded solely because his party already has its quota. Anyone who is of age may be appointed, but it is understood that the Committees shall only recommend people of ability and high character, and usually with some experience of public work. Justices are unpaid, and can only be removed from their office if they show themselves to be seriously unfit. England has thus an amateur magistracy, and for centuries this meant that each district of England was ruled by its little oligarchy of squires, who might or might not be conscientious; in the countryside their rigorous enforcement of the laws against poaching was the subject of many attacks. Although there is no longer any property qualification, it is difficult to find working-class men and women who can give the time to the work, and there are complaints that the old oligarchy persists in some districts. The quality of magistrates' justice varies so much, that it would be easy to quote examples both to the credit and discredit of the system; there are the patient and conscientious, and, at the other extreme, the lazy and ignorant, who leave most of the work to their Clerks. Many Justices aspire to their position simply for the dignity of it, and never sit in judgment at all. Among proposals for the reform of the magistracy are that Justices who do not act should be retired, and that all should give some evidence of legal knowledge before appointment. The merits of an amateur magistracy are that it is cheap and that it can give power to people whose everyday work, more than that of a professional lawyer, puts them in touch with the lives of those among whom they have to administer justice. Its defects appear when the volume of work grows, and it is usual in towns of over 25,000 inhabitants for a Stipendiary, i.e., paid magistrate, a lawyer by profession, to be appointed by the Home Secretary. In London, J.P.s are concerned only with the licensing laws, school attendance, and minor administrative duties, the bulk of the judicial work being given to the Stipendiaries. Some women J.P.s, however, take part in London Juvenile Courts.

The lowest court with criminal jurisdiction is the Court of Petty Sessions, which may be presided over by a single J.P. In this form, however, the Court cannot inflict heavier penalties than a fine of twenty shillings, or fourteen days imprisonment. Usually there is a "Bench" of two or more Justices, and Petty Sessions has then the same powers as a Stipendiary's Court. These courts have *Summary Jurisdiction*, i.e., they can deal with lesser offences straightway without trial by jury. They cannot, except in a few cases, inflict more than six months' imprisonment or a £50 fine. The police, or a private person, e.g. the victim of an assault, may obtain a summons requiring the offender to appear, or the latter may be arrested by the police and brought to the court. For small thefts and assaults, for drunk and disorderly charges, and minor motoring offences, the Court of Summary Jurisdiction is, the regular tribunal; the popular name "Police Courts" brings out the fact that the Courts of Summary Jurisdiction are mainly concerned with this type of case, and most of the witnesses are the policemen, who observe the offence. The more serious offences, e.g. theft, burglary, arson, murder, are known as indictable offences because the accused is charged in a formal written statement or indictment. These must be heard by a higher court with a jury, except that on certain charges the accused may choose whether he will be dealt with summarily, or go for trial by jury with the risk of a heavier penalty if he is convicted. Procedure at a Court of Summary Jurisdiction bears some resemblance to a full trial. First the prosecution and then the defence states its case, and calls witnesses who are examined and cross-examined. If, however, the accused person has a lawyer to represent him, it will usually be a solicitor, not a barrister as in the High Court. Nor, as has been said, is there a jury, and the case will be decided by the magistrates. If they are not satisfied that the prisoner is guilty they will dismiss the case; otherwise, they may "bind him over" for a stated period. If, during that period, he commits no further offence the matter is ended; if he does, he can be punished for

the two offences together. Frequently the offender or his friends have to deposit a sum of money with the court, which will be forfeited if further offences are committed. Offenders may also be put on probation for a period during which they must keep in touch with the Probation Officer. His task is to acquaint himself with their circumstances, and keep them away from evil influences. Finally the court may inflict punishment, within the limits mentioned above. When the accused is to be proceeded against by indictment, there is a preliminary hearing before the magistrates; they do not have to decide the question of guilt or innocence, but only whether there is sufficient evidence to justify committing the prisoner for trial at the Quarter Sessions, or the Assizes.

#### QUARTER SESSIONS.

The Court of Quarter Sessions is composed of two or more of the Justices from the whole of a county; in the larger towns, however, it is presided over by a single paid magistrate, the Recorder, appointed by the Home Secretary. All indictable offences, save the most serious, can be tried here, and appeals from the Courts of Summary Jurisdiction are heard. The procedure is the same as that of the High Court. Since the High Court has jurisdiction over both criminal and civil matters, it will be convenient to deal first with the lower civil courts.

#### COUNTY COURT.

The County Court, which deals with lesser civil actions, has none of the antiquity of the office of J.P. In the Middle Ages the mass of the people rarely handled money, and such rights as they had were often at the mercy of their immediate superior in the feudal system, or might be determined by the feudal courts which stood outside the King's justice. But by the middle of the 19th century the volume of small commercial transactions had grown, and in 1846 County Courts were set up to enable disputes arising from small debts to be settled

without recourse to the expensive machinery of the High Court. Since that date other types of civil business have been handed over to the County Court. The growth of social and economic legislation has also added to their work; workmen who consider they have not received due compensation for injury suffered in their employment, and tenants and landlords disputing about their rights under the Rent Restriction Acts, bring their cases to the County Court. The Acts which empower local authorities to deal with sanitation, housing, street widening, and reconstruction, create a good deal of litigation; landlords may be required to pay penalties for not observing sanitary regulations, individuals may be aggrieved by the decision of a local council to create a car park in a particular place. Business of this type, however, though sometimes appearing in the County Court, is usually handled by a Court of Summary Jurisdiction in its civil capacity.

County Courts are presided over by a Judge<sup>1</sup> who will be a barrister appointed by the Lord Chancellor. After hearing the plaintiff and defendant, who may be represented by solicitors or barristers, the Judge gives his decision, though occasionally a jury of eight persons is summoned to decide disputed matters of fact. It is possible to appeal from the decision of a County Court to the Court of Appeal. The County Court's jurisdiction is limited to cases involving not more than £100, or, for special types of case, larger sums up to £500. Although these are civil courts, they can issue orders requiring debtors to make payments, and neglect of such an order may lead to criminal proceedings and imprisonment. Hence it is that though imprisonment for debt has nominally been abolished, about one-fifth of the people who go to prison do so because they have disobeyed court orders by not paying debts. County Court Judges, however, distinguish between the careless debtor who makes no effort to pay, and the victim of an extortionate moneylender, or an unreasonable hire purchase contract. Before committing a debtor to prison, the

<sup>1</sup> Referred to as His Honour Judge So-and-so: a High Court Judge is known as, e.g. Mr. Justice Avory.

Judge must be satisfied that, since the order to pay was made, the debtor has had the means to pay and refused to do so.

#### CORONERS' COURTS.

Of the lesser courts, there remains one whose function is to discover facts rather than administer law. A coroner, who is a doctor or lawyer appointed by the County or Borough Council, and removable from his office only by the Lord Chancellor, has to hold inquests when death has occurred without obvious natural cause. He may sit with or without a jury, and when a jury is employed it can give its verdict by a majority vote. The rules of procedure are lax, and, when a witness is under suspicion, the inquest may degenerate into an irregular trial without any of the usual safeguards about evidence. A verdict of murder against a particular person will always be followed by arrest and criminal proceedings, in the course of which the prisoner may find his case seriously prejudiced. Criticism of this, and other, defects in the Coroners' Courts has grown in recent years, and considerable alteration of the law is now proposed.

#### THE HIGH COURT OF JUSTICE.

The centre of the whole judicial system is the Supreme Court of Judicature, possessing both civil and criminal jurisdiction. It was established by an Act of 1873, and is composed of the High Court of Justice, and the Court of Appeal; the rules of procedure in these courts are determined by the Supreme Court as a whole under the presidency of the Lord Chancellor. The High Court contains three divisions, (i) The King's Bench Division, to which belong the Lord Chief Justice, and nineteen puisne<sup>1</sup> judges. (ii) Chancery Division, presided over by the

<sup>1</sup> The name given to Judges not Presidents of a Division: they are appointed on the Lord Chancellor's recommendation, while the Prime Minister recommends to the King for appointments to the superior positions.



Lord Chancellor, or the Master of the Rolls acting in his place, and containing six puisne judges. (iii) Probate, Divorce and Admiralty Division, with a President and four puisne judges. For a proper understanding of the duties of each division, it is necessary to look back into history. The King has been described as the fountain of justice, and the phrase records the fact that it was courts established by the King which spread uniform rules of justice throughout his realm. These courts had to win their powers step by step, and this they did by means of writs, which were commands to persons or local courts, requiring them to do justice or refrain from injustice. The number of matters, however, with which the writs dealt was limited; further, it is the natural tendency of lawyers to proceed by rigid rules and according to precedent, since the danger of favouritism can thus be lessened. So the law administered by the King's Courts was both defective and excessively rigid; such an evil was clearly a reproach to the King, and it lay with the Lord Chancellor as Keeper of the King's Conscience, to remove it. Thus arose the Court of Chancery, which at first was not so much a court as an administrative department of State, charged with reconciling law and justice. In effect, the plaintiff who could not get justice from the law in a civil suit, appealed to the King's most intimate adviser to put the matter right in accordance with accepted ideas of fairness and common sense. From the decisions of successive Lord Chancellors, was framed a body of rules known as Equity, not in opposition to the law, but as an addition to it. Since Equity could recognise the existence of new problems to which the law had not been adapted, much business came to the Lord Chancellor's court; in particular, cases arising from property managed by people who were not its owners, but held it in trust for some other person or institution. Since the Court of Chancery was so closely connected with the King, it was suspect to the partisans of Parliament in the 17th century, and there was talk of abolishing Equity. No doubt it was convenient to have a royal official to remedy the defects in the law, but might not his powers

also be used to set the King's will above the law? Considerations of convenience prevailed, and Law and Equity Courts continued to exist side by side. The 1873 Act knitted the administration of the two systems together, so that the rules of both Law and Equity are administered both in the King's Bench and Chancery divisions. To-day, therefore, criminal matters go to King's Bench; civil actions may go either to King's Bench or Chancery, though cases which will require chiefly the application of the rules of Equity usually go to the latter. So the Chancellor's court still, as in the past, specializes in cases arising from trusts and the administration of property.

Through the Probate, Divorce and Admiralty Division, the High Court has taken to itself duties previously performed by special courts. In the Middle Ages, the Church occupied a position of great importance; and since at marriage and death the individual required the ministrations of the Church, Church courts dealt with questions of marriage, divorce and the proving of wills—proving, that is, that they had been made in the proper form, and that any claims of Church or State over the property of the deceased had been satisfied. Shipping and the Navy had developed their own Court of Admiralty, to deal with disputes about maritime affairs and crimes committed at sea. These separate Admiralty and Ecclesiastical Courts were absorbed in the High Court by the 1873 Judicature Act; so the Probate, Divorce and Admiralty Division handles a miscellany of problems which in the past required special treatment.

In London the civil work of the High Court is performed at the Law Courts in the Strand, while some of the King's Bench judges try criminal cases at the Central Criminal Court (The Old Bailey). In addition, King's Bench judges make regular tours of the country holding Assizes at certain towns; there they try all persons who have been committed by the lower criminal courts in that district, and settle such civil actions as have not already been brought to London.

## PROCEDURE IN THE HIGH COURT.

Criminal trials in the High Court, especially trials for murder, are matters of great public interest; they are extensively reported in all newspapers, and a large branch of fiction has sprung from them. Part of this interest is no doubt unpleasant, a morbid pleasure in reading of violent crimes and heavy penalties; but this is not the whole truth of the matter. Although few people are tried in the High Court—the very great majority of criminals are punished by Courts of Summary Jurisdiction—anyone who had the misfortune to be connected innocently and indirectly with a serious crime, might be so tried; so it is in everyone's interest that the procedure, by which death or long imprisonment may be inflicted, should be subject to the closest scrutiny.

The indictable offences tried in the High Court fall into three classes: treasons, felonies and misdemeanours. Treason, which is the attempt to deprive the Sovereign of his life or his rights, occurs rarely and is usually the symptom of grave social disorder. The distinction between felonies and misdemeanours is of historical origin, and while in general the more serious crimes are felonies, there are important exceptions; e.g., perjury, the giving of false evidence on oath, is only a misdemeanour. Rules of law are based on this distinction; anyone who assists a felon to escape justice may be charged as an accessory after the fact; anyone who sees a crime being committed must try to stop it, but unless the crime is a felony he should not use force to restrain the offender, or the latter may bring an action for assault against him.

The person indicted will be tried "by God and his country", that is to say, by a jury of twelve persons intended to represent his countrymen. The Registration Officers who compile the voting lists have to mark, as potential jurors, those who own freehold property worth £10 or more per year, or leasehold £20 per year, or occupy houses with a rateable value of £20 a year or over—or in the London area £30. Any of these may be called to serve on a jury, though most people regard it as an inconvenience rather than a privilege. Judges occasionally excuse

those who are called, if an adequate reason is given, and, after an exceptionally long or serious case, the jurors may be excused from further service for a period of years. When a jury is being empanelled at the beginning of a trial, either side may object to any member, and someone else will be taken. The intention is that the jurors shall have had no previous connection with the persons in the case. At the trial they are required by the judge to dismiss from their minds anything they may previously have heard about the case. As the earlier proceedings before the magistrates and possibly in a Coroner's Court will have been reported in the press, this injunction is not easy to obey. The jury at a murder trial is cut off from contact with the outside world, while the trial lasts.

The prosecution may be instituted by a private person, by the police, or by the Director of Public Prosecutions, and will be conducted by a barrister, who in a few cases of great importance will be the Attorney-General. In an opening speech he describes the facts as they appear to his side, and calls witnesses to support the story. Their evidence is laid before the court, in answers to a series of questions put by the counsel for the prosecution; they are then cross-examined, i.e., questioned by the counsel for the defence, who endeavours to show that they are either mistaken or lying; the judge may intervene with questions of his own. The court is guided by strict rules as to what evidence and what questions to witnesses may be permitted. In particular, neither side may try to confuse the jury, or excite irrational emotions, by bringing in matter irrelevant to the case; and witnesses must state what they themselves saw or heard, not the experiences and sayings of other people. Each counsel is alert to detect breaches of the rules by his opponent; sometimes the jury are sent away, while counsel argue, and the judge decides, the admissibility of certain evidence. When the prosecution has completed its case, counsel for the defence may sometimes submit that there is no real approach to proof, and therefore no case to answer; if the judge agrees he will direct the jury to find a verdict

of Not Guilty and the case ends. But the usual procedure is for the defending counsel to state his version of the facts, and call witnesses for examination, and cross-examination by the prosecution. Neither a prisoner, nor his wife, can be compelled to give evidence; but they may be witnesses for the defence if they wish. After the evidence is completed, counsel, first the defence and then the prosecution, make concluding speeches, though, if the prisoner has called no witnesses, the prosecution has no right of reply. The judge then delivers a summary of the case for the guidance of the jury. It is at this point that the high intellectual qualities required of a judge become most apparent. He must distinguish between crucial and trivial points; he must show what has been proved as fact, what conclusions follow inevitably from the facts, and what remains in dispute; he must explain the points of law involved. All this is done in the knowledge that if the prisoner is convicted there may be an appeal, and the fairness of the summing up will be submitted to the scrutiny of other judges. It is quite proper for a judge to incline to one side or the other in his summing up, if that is justified by the proved facts. The summing up invariably contains a warning to the jury that they must bring in a verdict of Not Guilty unless guilt is proved "beyond reasonable doubt". The jury may settle their verdict at once, but it is far more usual for them to retire. Then, till they reach a unanimous decision, they remain shut up, cut off from all communication, except that they may ask the judge for further advice on points of law, or re-examine any exhibits which have formed part of the evidence. If they cannot agree, the case will have to be tried again with another jury. If they say Not Guilty, the prisoner is discharged, and cannot be tried again on the same charge, even though he were to confess or overwhelming evidence of his guilt were to be discovered. This is a salutary rule which discourages the Executive from bringing a man to trial until there is formidable evidence against him, and prevents it from pursuing him with a series of prosecutions. If the verdict is Guilty the judge pronounces

sentence, which for four crimes—treason, murder, piracy and arson in royal dockyards—must be a sentence of death. For other offences, the law provides a maximum penalty but no minimum, so that the judge has a wide discretion. He will receive, to guide his decision, information from the police about any previous convictions of the prisoner—information which is rigidly excluded from the court, unless and until guilt is proved.

In civil actions before the High Court, the order of proceedings is, in the main, similar to that just described. Points of law, however, play a larger part; consequently proceedings may be complicated by legal arguments between counsel and judge. In many civil cases no jury is now required, and in some the judge may tell the jury what verdict they are to return. Special juries, containing people from a wealthier class than the ordinary juror, may be empanelled at the request of either side; they are chiefly used where the points to be decided will require extensive business knowledge. A notable feature of civil cases is the judgment pronounced by the judge at the end; he does not confine himself to saying which side has won, but delivers a statement of the general principles of law involved in the case. It is the reports of these judgments which form an explanation of, and addition to, the common law and the statutes. The Judge must also determine whether each side is to pay its own costs, or whether, as is usual, the whole cost is to fall on the losers.

#### APPEALS.

A party to a civil action who is dissatisfied with the High Court's decision, may take the case to the Court of Appeal. The Lord Chancellor, the Lord Chief Justice, the President of the Probate, Divorce and Admiralty Division, belong to this court, though they rarely attend. The work is done by the Master of the Rolls and five Lord Justices of Appeal, who are either ex-judges of the High Court, or barristers of at least fifteen years' standing; three or more members of the court sit to hear any appeal, and usually there are two, branches of the Court sitting

at one time. On the criminal side, there was no appeal from the High Court until an Act of 1907 provided that the Lord Chief Justice and a varying number of King's Bench judges should sit as a Court of Criminal Appeal. Unless the appeal is brought on a point of law only, permission to appeal must be obtained either from the Court of Criminal Appeal or the judge who tried the case. The Court of Criminal Appeal does not often reverse a verdict but frequently reduces the sentence imposed; it has also the power, less often exercised, to increase the sentence.

The highest of all courts is the House of Lords, which for this purpose means not the whole House, but the Lord Chancellor, the Lords of Appeal in Ordinary,<sup>1</sup> and peers who have held high judicial offices. Since this court may sit when Parliament is prorogued or dissolved, it is clearly distinct from the House of Lords as part of the Legislature. It hears appeals from the Court of Appeal, and even from the Court of Criminal Appeal, if the Attorney-General certifies that a point of law of great public importance is involved.

The House of Lords as a whole retains one legal function, that of trying persons who are impeached, i.e., accused by the Commons before the Lords.<sup>2</sup> Historically associated with impeachment is the process of attainder—the passing of a bill in the regular manner through both Houses, to declare a particular person guilty of treason or felony, and impose a capital sentence. Neither impeachment or attainder have been used for over a century, and they have little to recommend them. They were employed against persons whom Parliament believed to be dangerous, but against whom there was not sufficient precise evidence to secure conviction by an ordinary court. Attainder is not a judicial, but a legislative process; it is indeed, little short of legalised murder.

While there is no court above the House of Lords, there are

<sup>1</sup> See Ch. X.

<sup>2</sup> The right of Peers accused of felony to be tried by the House of Lords was abolished in 1936.

two departments of the Executive closely connected with the administration of justice. First, the Home Secretary, through the exercise of the Royal Prerogative of Mercy, can abolish or reduce sentences, so there is, in a sense, appeal to him in criminal cases. Secondly, there is the Judicial Committee of the Privy Council. This is not, strictly, a court delivering judgments, but a council advising His Majesty. Since, however, its membership includes those Privy Councillors who have been judges, the Lords of Appeal in Ordinary, and some judges from the self-governing Dominions and India, it possesses more legal knowledge and experience than any court, and has become in practice a court of appeal from courts in territories belonging to His Majesty but outside the United Kingdom, and a court to which disputes between Dominions may be referred. It can also revise the decisions made by the Ecclesiastical Courts in which the Church of England settles problems arising in its own organisation. Finally, in the unlikely event of the courts ignoring the most obvious principles of justice, it might be that the Judicial Committee would intervene with advice to the King to see that justice was done.

## BOOKS:

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## CHAPTER XVI

# LAW, LIBERTY AND JUSTICE

- Quality of British Justice
- Justice for Rich and Poor
- Treatment of Law-breakers
- Young Offenders
- Principles of Reform
- Law and Liberty
  - Freedom of Association
  - Freedom of Speech and Publication
  - Freedom of Meeting
- Rule of Law

### QUALITY OF BRITISH JUSTICE.

The system of English law and the hierarchy of the courts are ancient and impressive, and on a strictly legalistic view, they produce justice. That is to say, they are free from bribery; except for parts of divorce suits, and when evidence containing military secrets is being given, the courts are open to the public and the Press. This publicity is a safeguard of justice, while the rule that newspapers may report a case but not comment on it until the end, prevents the whipping up of sentiment, so as to overawe the courts and secure verdicts according with momentary feeling rather than with the facts. Favouritism or malice on account of the social position, the political or religious beliefs of the accused, do occasionally appear in the courts of the less worthy J.P.s, but in a world where many countries have thrown aside even the pretence of impartiality, the record of British justice stands high. The rules of evidence, the repeated right of appeal against conviction, and the provision that acquittal at any stage is final, all combine to secure that if error creeps in it is far more likely to result in the acquittal of the guilty than the condemnation of the innocent.

Justice, however, must be considered, not only in the legal sense, but in relation to the whole political and social framework; and for a proper appreciation of a legal system three questions must be examined. First, do the differences in the incomes of individuals hamper the efforts of the courts towards impartiality? Second, is it properly understood that criminals have rights—that justice to them means not only punishment, but an attempt to help them become good citizens? Third, does the law, and the courts' interpretation of it, uphold that freedom of opinion, without which neither justice nor progress can continue?

#### JUSTICE FOR RICH AND POOR.

A very large proportion of offences are punishable by a fine with the alternative of imprisonment. Magistrates endeavour to proportion fines to the offenders' means, though they cannot have sufficiently detailed knowledge to do this exactly, and it must be remembered that many people have little money to spare after the necessities of life have been bought. The use of discretion by the magistrates has also the undesirable result that the same offence committed by offenders in similar circumstances will receive widely different treatment from court to court. The extent of the problem can be seen from the fact that about one-sixth of those who go to prison are persons who have refused or failed to pay fines. The result is that everyone assumes, without any desire to be unfair, that imprisonment is more natural for the poor than for the rich; the growth of motoring offences and the treatment of them has made this clear. It is not easy to suggest a remedy; the wider use of imprisonment "without the option" would please no one, and, at least until the prison system has been carefully examined and reformed, would do no good. Meanwhile, some progress is being made by granting time in which to pay fines, and the volume of this unnecessary imprisonment is declining.

Persons not yet convicted of any offence may find themselves imprisoned. When a case is brought before the magistrates all

the necessary evidence may not have been obtained. A remand, i.e., a postponement of the case, is then necessary, and the prisoner will be "remanded in custody" unless the court grants bail—i.e., lets him go on the understanding that he must forfeit a sum of money if he does not return on a fixed date. A person from whom very little money could be obtained, might be refused bail on that ground. The same problem arises when prisoners are committed for trial. Not all accused realise that there is the alternative of bail, or that if bail is refused by the magistrates they can appeal to a High Court judge. In this, and in other matters, magistrates need to exercise much consideration for the rights of the accused if injustice is to be avoided. Bail is naturally refused to those whose past record makes it likely that they will use their period of liberty to attempt flight, and to those charged with very grave crimes.

Trial by jury is often referred to as one of the bulwarks of English liberty. It is, certainly, an English device, representing the compromise between the different races that make up the English people. The Norman conquerors wishing to ascertain the customs of their Saxon subjects, adopted a method that had been employed across the Channel by Frankish Kings. Yet it is not the normal method of trial; four out of every five convictions are made by Courts of Summary Jurisdiction. Nor, for two-thirds of the population, can it be, as it is sometimes described, trial by one's peers; the juror's qualification excludes the poorer classes. A general accusation of class bias against juries would be quite unjustified; but prejudice and error are human failings, and the present jury system means that where they appear they are most likely to operate against the poor. Jurors, unlike judges, have not gone through the rigorous legal training which teaches self criticism and caution against prejudice.

But the element in English justice which does most to tilt the scales against the poorer classes is its expense. If the accused is to present his case properly, he will certainly need a barrister in the High Court, and perhaps a solicitor in the lower courts. Persons

brought before a Court of Summary Jurisdiction may, if they are really poor, be granted by the court a Certificate of Legal Aid which will secure the necessary services free. Similarly when such a court commits for trial persons without means, it will make a Defence Order which provides proper help in the higher court. Further, a large proportion—probably more than half—of the divorce cases brought in the High Court come under the Poor Persons Procedure, by which solicitors and barristers give their services free of charge. Poverty and ignorance of procedure can, however, be a serious handicap in the lower courts, and the right of appeal from them is limited by its costliness and the need to deposit money which will be forfeited if the appeal is dismissed. In civil cases the possibility of two or three appeals between the County Court and the House of Lords, is an actual disadvantage to the poorer party who may find it cheaper to abandon his case than to prolong the expense.

The mere size of lawyers' fees is one cause of the dearth of justice, but this is only a part of the great question of the distribution of incomes, which cannot be discussed here. In civil cases, the length of the proceedings throughout which the services of a lawyer must be paid for, adds to the expense. A wealth of documentary evidence may be required for every part of the case; either side may search for points of law with which to hamper the other; the relevance of each piece of evidence may give rise to long argument. The problem, therefore, is to simplify and shorten procedure without hindering litigants in the proper presentment of the case. Now the solution can only be found by expert lawyers, and so vast is the body of knowledge required of any lawyer, that it is natural for members of the profession to think of themselves as servants of the existing law, rather than reformers. The Common Law is incomplete; Statutes are not always well drafted, and much of the energy of lawyers has been used up in devising rules to make an imperfect instrument fit for all the work it is set to perform. The rules of Equity are an example of this ingenious constructive ability; but the existence

of Equity and Law side by side is one of the complications of the present system. It is only men of superlative gifts who can combine the great lawyer's grasp of fact and legal principle with the statesman's insight into the needs of the community. The 1873 Act marked an advance towards simplicity; the late Lord Birkenhead achieved great reforms in the law relating to property; but the whole problem is still the subject of study by several committees.

The collective funds of Trade Unions can secure good legal advice for working people in cases of wrongful dismissal, or Workmen's Compensation; and excellent work is done by "Poor Men's Lawyers" who put their advice at the disposal of members of the local organisations of political parties, or work with non-party welfare associations. In the past detestation of lawyers was widespread; under the feudal system they were regarded as upholders of the harsh restrictions on personal liberty; until at least the middle of the 19th century they were suspect as men who entangled justice in a net of procedure; they suffered from some of their own number who saw in legal confusion a source of income rather than a reproach to be removed. The growth of social legislation, and of awareness, among lawyers, of social problems, has done much to alter this attitude.

The law, then, is dear because it is complex and because the volume of litigation leaves little time for reform. In the higher courts, the insufficient number of judges, and consequent delay in hearing cases is a frequent cause of complaint. Nor can any description of the Judicature fail to bring out the fact that the Lord Chancellor bears a burden fit for two or three men. If the duties of a Cabinet Minister, the Speakership of the House of Lords as a legislature, presidency of it as a court, chairmanship of the Judicial Committee of the Privy Council, Presidency of the Supreme Court, the Court of Appeal, and the Chancery Division were not enough, he has control over an immense number of judicial and ecclesiastical appointments; as Keeper of the King's Conscience, he is the person finally responsible

for the care of minors and lunatics, and may be charged with any duty belonging to the Crown, which involves the protection of the weak. While the Cabinet have a collective responsibility for acts of Government, a special solemnity attaches to him since he keeps the Great Seal which gives effect to important documents. More than once a proposal has been advanced for the appointment of a Minister of Justice who would take over those duties of the Home Secretary connected with justice, and the legal appointments of the Lord Chancellor, and would give proper attention to questions whose consideration is hampered by pressure of work—e.g., the formation of general principles to guide judges and magistrates in the infliction of penalties, and the encouragement of legal education. A number of judges and lawyers, however, view this proposal with suspicion, because it offends against the principle of separation of powers; they point out that in countries where a Ministry of Justice has been established, it has sometimes become an instrument by which the course of justice can be deflected at the will of the party in power.

#### TREATMENT OF LAW BREAKERS.

When the relations between the State and those who break its rules are considered, the most obvious purpose of the Judicature is to vindicate the State's rights—to show that they cannot be ignored with impunity. But the efforts to protect society will have only partial success if they are not directed to reforming the offender. There are, then, two elements in the treatment of criminals, the deterrent and the reformative. Round these have grown two schools of thought, one inclined to ask for severe punishment in order to deter others from criminality, if not the criminal himself, the other urging the human rights of the criminal, the practical advantages of reforming him, and the danger that over-severity will turn a petty offender into an enemy of society. Capital punishment, which in this country is inflicted on about a dozen persons every year, clearly cannot be reformative. Its supporters hold that it is a necessary deterrent and the

chief reason why so few criminals in Britain use or even carry firearms. Its opponents answer that this conclusion is not borne out by the experience of other countries which have abolished the death penalty, and emphasise the repulsion which prison officials feel to an execution. It is probable that flogging which is sometimes ordered in addition to imprisonment, for crimes of violence, must be regarded in the same light; the fear of it may deter potential criminals, but it can hardly have anything but a brutalising effect on the recipient. The Cadogan Committee which reported in 1938, recommended its abolition except for a few offences committed by people already in prison.

Imprisonment is the outstanding feature of the British penal system. An ordinary sentence such as is imposed for lesser offences, is served in the Second or Third division. First division imprisonment, which was intended for political offenders, allows the prisoner much freedom in regard to meals, access to books, and use of time; nowadays, however, it is hardly ever imposed. Prisoners in the Second and Third divisions are classified by the prison authorities according to their age and previous character. Most of the work done in prison is of little use, and it is usually performed by obsolete methods; it is not likely to preserve a man's fitness for work, or help him to regain employment when he is free. The prisoner is urged along the path to virtue by the dread of penalties—solitary confinement and low diet—and the hope of privileges and of a remission of part of his sentence. The present Home Secretary, Sir Samuel Hoare, who is related to the famous 18th century prison reformer Elizabeth Fry, has outlined a policy of allowing maximum privileges at the start, and of adopting measures calculated to appeal to self respect rather than fear.

Grave offences are punished by penal servitude for not less than three years. Here work is more laborious, conditions harder, and discipline more rigid. The word "servitude" is significant; the convict is in effect a person without rights, whose condition of life depends on the prison Governor. The convict who behaves

well accumulates privileges, and may be released when he has served three-quarters of his sentence. He is then, however, on "ticket of leave" for the remaining quarter, and must regularly report to the police. In these circumstances it is difficult for him to obtain employment, and this system will before long be abolished.

There are Discharged Prisoners' Aid Societies, which try to restore the ex-prisoner to normal life and work, but their resources are limited, and their work consequently unsystematic. State action in this matter is one of several reforms now overdue in the penal system; others are, the more intelligent employment of prisoners' time, the humanising of prison discipline, and a more thorough training of those who are to be prison officials.

#### YOUNG OFFENDERS.

The duty of attempting reform is particularly urgent with the young offender; for his treatment, at his first conflict with the law, may well decide his attitude towards society, for the rest of his life. Court procedure, moreover, has to be made simpler and less alarming. A large number of Acts, chief of which are the Children and Young Persons Acts of 1932 and 1933, deal with this problem, and with the protection of children from cruelty and evil influences. Consequently, it is now very rare for children under fourteen, and comparatively rare for young persons under seventeen to be tried on indictment. They may appear before the ordinary Courts of Summary Jurisdiction, but are frequently dealt with by Juvenile Courts, composed of magistrates chosen for their special fitness for the work. If possible, these courts must find a place other than a police station or police court for their sittings; the public are excluded and the Press forbidden to report the offenders' names. The court will acquaint itself with the home circumstances of the culprit, and with the opinions of his parents, teachers, or employers. The only punishment which may be inflicted under this procedure is that of birching for boys under fourteen; the abolition of this punishment was recom-



mended by the Cadogan Committee. There are, however, many measures which may be taken to see that the offender is under proper care for the future. Often it will be enough to remind the parents of their duty, or require them to deposit a sum of money as security for their child's good behaviour. Much use is made of the system of probation, which is chiefly intended for juveniles and appears to be more successful in preventing repetition of crime, than any other method. If the offence has been grave, or the control at home is judged unsatisfactory, the offender may be sent to an approved school for three years or more. Finally, any court which has found a person between sixteen and twenty-one years of age guilty of an indictable offence, and liable to fall into serious criminality, may send him to a Borstal institution for two or three years. The life is planned to resemble that of a school, with a strong bias towards manual training and outdoor life; it succeeds in turning about three-quarters of the pupils into good citizens.

#### PRINCIPLES OF REFORM.

Despite the shortcomings which have been mentioned, English penal and reformative methods have greatly improved in the last 120 years. Penal reforms are usually made much later than they ought to be because so large a proportion of the people do not get sent to prison, and find anxiety enough in the problems of ordinary life. The question is sometimes put, why bother so much about those who break the law? Would it not be better to give attention to improving the life of honest people? There are several answers, the most obvious of which is that it is quite possible to deal with both problems. Further, it is cheaper to reform the criminal at an early stage than to keep him in prison at intervals for most of his life. On deeper consideration, it becomes clear that a community that is callous towards its criminals lowers its moral standards, and will be less alert to detect cruelty and injustice in other spheres. Careful study of the reasons why people break the law, often reveals the law

defects; from this spring reforms which benefit everyone. All punishment is an emergency measure; if a man steals, the ultimate problem is to find out the cause, whether it lies in social conditions, or the thief's own nature, and try to remove it. Unfortunately this process takes time, and in the interval society must be protected. Herein lies the justification of punishment, and its danger; for if it is used without thought, society, feeling itself protected, may neglect the duty of reform. When this occurs, as in the 18th century, both the cruelty of punishments and the savagery of criminals increase, each nourishing the other. England has escaped from this vicious circle, partly through the efforts of prison reformers such as Elizabeth Fry and John Howard, partly through the development of an adequate police; for when a greater proportion of criminals are caught, there is no longer the desire to make a terrible example of them.

#### LAW AND LIBERTY.

Criminals, it has been argued, must be punished, in order to protect society. This protection is usually thought of as the defence of property against theft, but if the law did no more than this, it would be a device for keeping the rich on top and the poor underneath. It should be, however, the means by which everyone may be protected from interference with their personal liberties. The phrase "the liberties of an Englishman" has long held place in history even at times when the eye of faith is required to discern them. The use of the concrete plural "liberties" is typical of English practice; there has been no general proclamation of liberty as such, but each of a series of important rights has been vindicated by a particular struggle in history, and its maintenance to-day depends on the working of the law.

The diligent filling up of gaps in the law, in deference to the principle that the King must not suffer injustice to be done, has established the rule that there is no wrong without a remedy. So if private persons do not fulfil legal obligations to one another, or if one attempts to restrain another from going about his lawful

business, the victim may proceed with a civil action for breach of contract or trespass, or a prosecution for assault according to circumstances. There is one curious exception; since the Crown cannot do wrong, it cannot be liable to civil or criminal proceedings. For example, a man knocked down by an Army lorry may proceed against the driver, but the driver's employer, the Crown, is not liable to pay damages as a private employer might be. In fact, however, the Crown is prepared to pay such damages, so no injustice arises. If Government Departments break contracts, there is a special procedure known as the Petition of Right, by which the Attorney-General's consent to civil proceedings can be obtained. Moreover, an increasing amount of public enterprise is managed by bodies such as the B.B.C., legally separated from the Crown; the man whose business has been injured by a careless comment in a broadcast finds no special legal difficulty in obtaining redress, provided he does not delay more than six months in bringing the action.

The combination of the rule "no wrong without remedy" with the Rule of Law,<sup>1</sup> protects the citizen from unlawful imprisonment or other injury at the hands of officers of the Executive; for he can proceed against them as against anyone else. Against unlawful imprisonment, there is a special precaution, the writ of Habeas Corpus. This writ is an order from a judge of the High Court, requiring whoever is holding the prisoner in jail to bring him before the court on a given date. The effect is that any person who is in prison, except as the result of a lawful sentence by a court, can obtain his release or trial at the earliest possible moment. The writ is one of the oldest parts of English law, far older than the famous Habeas Corpus Act of 1679, or the less well-known Act of 1816. These Acts make the procedure for obtaining the writ simple, and provide heavy penalties against anyone who tries to prevent a prisoner from obtaining it. Occasionally, in times of stress, Acts have been passed depriving persons suspected of high treason of the right to a writ of Habeas

<sup>1</sup> See Ch. II.

Corpus; but such Acts have, like the Army Act, required annual renewal, and there have been none in recent years.

The liberties essential to democracy—freedom of speech and writing, of public meeting and association—exist in virtue of the general principle that a man may do whatever has not been forbidden by law. The scope of these rights in practice can therefore be discovered by an examination of the laws concerning slander, libel, blasphemy, indecency, sedition and breaches of the peace, in particular some recent Acts such as the Public Order Act, 1936.

*Freedom of association.* Britain contains a vast number of voluntary associations, for political, religious, industrial, and many other purposes. The restrictions on the right to associate are few. Associations formed to plan a crime are illegal; and the Public Order Act, modifying earlier laws, bans organisations which are trained and equipped so as to rival the forces of the Crown, or further their political beliefs by a show of force. The Registrar of Friendly Societies exercises control over Trade Unions, Benefit Clubs and the like, to see that members are not defrauded, or their money used for purposes outside the association's province. By the Trade Unions and Trade Disputes Act, 1927, strikes and lock-outs which might be considered as seeking to bring pressure on the Government are forbidden, and servants of the Crown are prevented from joining organisations which cater also for the employees of private persons. The wisdom of this Act is in dispute between political parties. Its supporters hold that it is necessary for the preservation of order and essential public services; its opponents, that it works to the disadvantage of wage earners, and unduly weakens the bargaining power of Civil Servants.

*Freedom of speech and publication.* It may be slanderous to say that a man has committed a crime, or to make any other defamatory statement, which causes him to suffer material loss; libel is the publication of defamatory matter in writing or some other permanent form, even if no material loss has been inflicted.

The victim of either may bring a civil action and obtain damages, and if the libel is so outrageous that it might provoke a breach of the peace, a prosecution for criminal libel may be instituted. The law is complicated by the various defences which may be put up. A reviewer may say that his words were fair comment; the words may have been uttered in a privileged place, e.g., Parliament, so that no action will lie; or it may be argued that the statement was true, and that it was in the public interest to make it. The uncertainty, and the heavy damages sometimes awarded, can cause great expense to people who publish statements in good faith, and in these respects the law could with advantage be reformed. Political controversies are, however, saved from the scurrility which attends them in countries where the law of libel is less strict. The effect of the laws has been summarised in the saying that anything may be written or said which a jury thinks fit to be written or said.

In cases of blasphemy, indecency, and sedition, the deciding authority is more frequently a magistrate than a jury. The definition of the first two offences is so vague that the law can have inequitable and absurd results. A learned agnostic, writing in literary language to prove all religions impostures, will probably be immune; the same view expressed in the cruder speech of the street corner, would lead to prosecution. On more than one occasion books have been condemned as immoral by a magistrate after hearing selections read by a police officer, evidence in favour of the book by writers of known standing being ignored. Nor is the definition of sedition, as applied to speech and writing any more satisfactory. Incitements to people to resist the law by force, to attempt alterations in Government policy, or the remedy of social injustice, by unlawful means, are justifiably forbidden. But the most vigorous criticism of the Government or the Constitution, or the class structure of society, and the rousing of opinion to alter them according to law, should be permitted, and it is generally supposed that they are permitted. Legally, however, it is seditious to stir up ill-will between classes,

and a frightened or bigoted magistrate might interpret this as condemning any speech or book or pamphlet which strikingly contrasted the lot of the poor with that of the rich. The position is therefore somewhat paradoxical. In practice the British enjoy a large measure of freedom which can be simply illustrated:—Germans, Italians and Russians, not to mention other nationalities, who wish to publish books attacking the Constitutions and conditions of life in their countries, do so in this country, or France, or the United States; British writers, equally critical of our institutions, publish their works in Britain. Yet this liberty might be swiftly curtailed in time of acute political conflict, simply by more rigorous interpretation of the existing law; and wide discretion rests with the magistracy—that is to say, with a part of the legal system where the need for reform is generally admitted.

The Incitement to Disaffection Act, 1934, has a special effect on books and pamphlets. The general right of the State to punish attempts to seduce members of the Armed Forces from their allegiance cannot be denied; and this right the Act reaffirms. But it further lays down that anyone who intends to commit this offence, and has in his possession documents suitable for the purpose, shall likewise be punished. A High Court judge who is satisfied that an offence has been committed, may grant a warrant empowering a police inspector to search any premises where evidence may be found, and any person on the premises. The reason for the passing of this Act was that the Admiralty had expressed concern about political activities directed toward the Navy and dockyard workers; its practical operation will need to be watched with care.

The law deals only with documents which have been published; there is no censorship, that is to say, no need to obtain in advance permission to publish. Stage production, however, must be approved by a Court official, the Lord Chamberlain; this censorship works to a set of stereotyped rules, e.g., the prohibition of certain references to Royalty, or of particular words and phrases.

It has therefore been easy to quote examples showing that worthless productions are permitted, while serious and valuable work has been banned because it was outspoken. But if the Lord Chamberlain attempted to act as a literary critic, it is unlikely that either the public or the authors would be better pleased. The showing of films is controlled by local authorities, which are largely, though by no means wholly, guided by the decisions of the British Board of Film Censors, a private body set up by the film industry. The growth of societies for the showing of particular kinds of film, and the use of non-inflammable films free from the usual restrictions, are both factors which have increased freedom in this direction.

*Freedom of Meeting.* Speeches made at meetings are subject to the restrictions already described, and the actual holding of a meeting raises the further problems of obstruction and breach of the peace. The former concerns only meetings held at street corners, on commons, or in other public places. In such places, everyone has a right to pass to and fro, and anyone, or any number of people, may stop to talk or listen or do anything not in itself unlawful, provided they do not obstruct the right of passage; a meeting which does obstruct may be dispersed. This principle has to be applied with common sense; an attempt to hold a meeting in Piccadilly Circus would clearly be illegal; on the other hand, no one could require a peaceful meeting in Hyde Park to be dispersed, so that he could walk across the site of it. In practice, the local authorities and the police make regulations stating what street corners or parts of parks may be used for meetings. Citizens who consider that this power is being unreasonably exercised, may attempt to hold meetings, and bring an action against anyone who attempts to disperse them; the question will thus be referred to the courts for decision.

As to the latter restriction, the general principle may be stated as follows:—no one may commit a breach of the peace, and a meeting which does so becomes an unlawful assembly; every citizen has a duty to stop breaches of the peace, and this duty is

particularly incumbent on police and magistrates. Speech and behaviour which is so provocative that it gives reasonable cause to fear a breach of the peace is forbidden. The application of the last clause of this principle, has given rise to some nice points of law, and several Statutes try to define the matter more precisely. Suppose, for example, that Fascists wish to hold a meeting in Whitechapel and set forth their reasons for disliking Jews, or that an ardent band of Protestants wish to proclaim their beliefs in the heart of a Catholic district in Liverpool. Meetings on such topics are not in themselves unlawful, but held in those districts, they may well provoke a breach of the peace. Are the authorities to permit them, and so give the police the duty of dispersing them when disorder begins—a duty dangerous and unpleasant both to police and public? It seems more sensible to prohibit them in advance, but this action admits the dangerous principle that a meeting may be made unlawful by the disorderly conduct of those who dislike it. Once this is granted, any section of the community can prevent their opponents from holding meetings, and the forces of the law, instead of protecting the law-abiding citizen, will be putting into effect the wishes of the disorderly. On this point, the Public Meetings Act, 1908, and the Public Order Act, have endeavoured to frame a compromise. It is forbidden for anyone at a public meeting to carry an offensive weapon, or to use “threatening, abusive, or insulting words and behaviour”. No one may act in a disorderly manner so as to prevent the meeting from doing its business, and a policeman who reasonably suspects anyone of doing so, may, if the chairman of the meeting requests, insist on the suspect’s giving his name and address. These provisions are aimed against the disorderly, and are unobjectionable as long as police and magistrates act with reason and fairness. The prohibition, by the Public Order Act, of the public wearing of political uniforms appears to have been useful in preventing disorder. Uniforms appeal to emotion rather than reason, and bring into politics an excitability which is harmful both to the public peace, and the sensible expression of



views. More open to question are the restraints put on meetings for fear they will provoke disorder. It is within the power of the police to prohibit the use of any open air site, e.g., the neighbourhood of a labour exchange if they "reasonably apprehend" that disorder will result. Where the meeting takes the form of a procession, it must follow the route which the police require, and refrain from carrying any banners which the police have reason to think provocative. In the City of London, and the Metropolitan Police district, the Commissioners of Police may, with the Home Secretary's consent, forbid all processions by orders which require renewal every three months. In other towns such an order may be made by the Borough or Urban District Council, at the application of the police, and subject to the Home Secretary's consent. These measures are likely to enjoy the approval of the large number of citizens who do not organise meetings and who dislike disorder. Some danger lies in the fact that the enemies of democracy may, by creating disorder, lead a democratic Government on, step by step, to curtail liberty on the pretext of preserving the peace.

#### RULE OF LAW.

The principle stated above—that all citizens, particularly those in authority, have a duty to see that the peace is kept—is not altered in the least by recent laws; it remains as the last reserve of power on which the Government can call. Should rebellion or invasion occur, magistrates, Chief Officers of police, officers of the Armed Forces, and Ministers of the Crown, may and must take any action necessary to restore order, and call on their immediate subordinates, and any other citizens, to co-operate. Seizure of property, arrest, and even killing of persons are made legal by the fact of necessity, but by necessity alone. Anyone who proceeds to arbitrary and violent acts beyond what is necessary will be subject to prosecution afterwards; though it is extremely probable that the Government would, after so grave a crisis, protect all who had acted in good faith, by passing an Act of

Indemnity.<sup>1</sup> What is sometimes called Martial Law in England, is not, therefore, a special system of law to be invoked at special times. It is merely the operation on a great scale of the same rule that requires anyone to interfere—or at least to call the police—if he sees an assault or theft being committed.

The exact extent to which we may exercise our liberties, is thus shown to be determined very largely by the police, and in the last resort by the courts. The recruitment and training of the former, and the appointment of judges and magistrates to the latter, are therefore all the more important. But above all, the preservation of liberty with order depends on the individual citizen. All Governments, irrespective of party, like to increase their own powers, and, since they are composed of human beings, they are inclined to resent criticism, and see in it a danger to the peace, where none exists. So the citizen, besides refraining from, and assisting to stop disorder, must be ready to champion any victims of injustice, even though they be persons holding absurd or unpopular opinions. A Government intending to persecute, will naturally begin with the more unpopular people, and the arbitrary treatment of them will serve as a precedent for other sections in time to come. Only a people which has made the Rule of Law a rule of life can resist this piecemeal destruction of liberty.

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- \*DICEY. *Law of the Constitution* (Chaps. IV–VIII and Appendix)
- JAMES CURTIS. *Guide to British Liberties* ("Fact" pamphlet.)
- FOX. *The Modern English Prison*.

<sup>1</sup>See Ch. II.



# PART IV

## LOCAL GOVERNMENT

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### CHAPTER XVII

## THE LOCAL AUTHORITIES

Historical Development  
Local Government Electors  
The Parish  
The District  
The County  
The Borough  
General Survey

### HISTORICAL DEVELOPMENT.

The modern State contains towns and country districts and exercises sovereignty over them, but it has not destroyed their separate life, nor failed to use them as units of Government. Local Government is necessary because the central authority has not the time to concern itself with every lamppost and footpath, and the first task of a local authority is to minister to purely local needs. Secondly, when nation-wide schemes of education, housing or transport are developed, the local authorities serve as agents for the Government, adapting the main lines of policy to local conditions. Further, if they enjoy some measure of independence, they can make experiments which may help future legislation, and they will attract the interest of the citizens. In the long run, no doubt, the policy of the Central Government is the more important; if the country goes to war, the dangerous crossroads in one's own town may seem of little significance. But in everyday matters the citizen's most immediate contact is with the local authority; he may be run over because the street is ill-lit, or poisoned because the water supply is neglected. If he

is dissatisfied with his own, or his neighbour's housing conditions, or with the education of his children, his first complaint will be directed against a local council.

English local Government is both older and younger than the Central Government. Parishes date from long before the Norman Conquest; Counties and Boroughs existed before Parliament. Side by side with these were the Justices of the Peace who carried out, in a rudimentary form, many duties now performed by local authorities and departments of the Central Government. In the 16th century the vigilance of the Privy Council over the Justices was such that it seemed that as if England might move towards a highly centralized form of Government. After the 17th century defeat of the Crown, the local prestige of the Justices as country gentlemen enabled them to exercise their authority much as they pleased. At the close of the 18th century, the countryside was ruled by squires, the more tedious work being done reluctantly by the parishioners. The Government of Boroughs varied greatly in efficiency and honesty, and had often fallen into the hands of a clique. Many of the parishes had grown into towns; if they were still governed by an Open Vestry, i.e., an assembly of all the ratepayers, the meetings were often disorderly; where a Select Vestry, i.e., a small group, either elected by the ratepayers, or chosen on some special plan, held power, cliques and corruption were again manifest. The reforming zeal of the 19th century took the old local divisions and created new authorities out of them by Act of Parliament. Despite the antiquity of the Borough, the Borough Council of to-day gets its form from the Municipal Corporations Act of 1835; some of the ancient dignity of the County survives, but County Councils are the creation of the Local Government Act of 1888, and the modern form of Parish organisation goes back only to 1894. During the same period Parliament dealt with the growth of social problems by erecting authorities *ad hoc*, that is to say, for one specified purpose. Poor Law Unions of parishes already existed; to these were added Burial Boards, School Boards, and

so many others that the elector was bewildered, and efficiency impaired. More recently, the tendency has been to abolish these authorities, and hand over their duties to Boroughs or Counties, or to the Districts created in 1872 as intermediate authorities between Parish and County. Further, the administration of social services has required closer co-operation with the centre. The Local Government Acts of 1929 and 1933 together with recent Acts on housing and transport express these developments. Two elements can thus be traced in local Government—the desire of the citizens in their localities for independence, and the Central Government's desire for efficiency and uniformity. The English system has reasonable success in reconciling these two. On the one hand, the local Councillors are elected from the neighbourhood and, with a few exceptions, unpaid; but they are assisted by a paid staff and work under the supervision of the Central Government. To-day each local authority, beside performing some duties peculiar to itself, is a unit co-operating with other local authorities, and with the centre, for the development of national policy. The subject of local Government can therefore be studied either by tracing the performance of each service, or by examining the powers and duties of each authority, and not until both processes have been completed does a satisfactory picture emerge. It will be convenient to describe in this chapter how the authorities are elected, and some of their duties; the next chapter will show how local Government machinery is used for maintaining social services. The Government of London is reserved till later.

#### LOCAL GOVERNMENT ELECTORS.

The voting registers compiled by the Clerks of Counties and Boroughs serve for local as well as Parliamentary elections. Anyone who, whether as owner or tenant, occupies any land, house, unfurnished rooms or other premises in a given local Government area, is entitled to vote in that area. The wife, or husband, of anyone so qualified is also entitled to vote. The

effect of these regulations is that all persons who have a Parliamentary vote have also a local Government vote, except those who live in rooms which they do not furnish themselves. Since the rates for local expenditure are levied on land, houses and other buildings, it is argued that these persons are not ratepayers and should not have a voice in determining how the rates are spent. The chief effect of the rule is to exclude young people, over twenty-one, but still living at home; they will, however, obtain a local vote if they can point to rooms in the house which they occupy and furnish. The rule is not entirely logical, for if the young people are contributing a proportion to the family expenses they will be affected by the rates; and landlords who let furnished apartments probably bear the rates in mind when fixing their rents. Peers are the only people who, though disqualified from Parliamentary voting, possess a local vote. As a general rule, anyone qualified as an elector in the area of a local authority, may become a candidate for election to that authority, but no one may try to become a member of an authority which employs him. Persons who have been Councillors and mishandled public money, and anyone who has received Public Assistance at any time during the year before the election, are disqualified from standing. The dates of elections are fixed at regular intervals by Act of Parliament, and the voting is governed by rules similar to those for Parliamentary elections. Candidates do not, however, have to deposit money with the Returning Officer.

#### THE PARISH.

Although all England is divided into Parishes for Church purposes, the Parish, as a local authority, exists only in the countryside. Where the population is less than three hundred, there is usually no Council, and affairs are managed by a Parish Meeting which all the ratepayers may attend. In the larger parishes a Council of from five to fifteen members is elected, usually by a show of hands at a Parish Meeting in April, and holds office for three years. The duties of either Council or Meeting are

slight; they may maintain a Parish Hall and a Library, look after a village green, and protect local rights of way. Sometimes they take advantage of an Act which enables them to see to the lighting of the village, and higher authorities may hand over to them the care of the water supply, and the repairing of footpaths. If any of these matters has been seriously neglected there will be excitement at the Parish Meeting, but usually Parish Councils carry out their necessary, if humdrum, duties, without earning either gratitude or resentment. There is sometimes a difficulty in finding persons prepared to serve on the Council, and provision is made that residents in another Parish may be elected so long as they do not live more than three miles away. A Parish may have a paid Clerk, but no other paid officials.

#### THE DISTRICT.

A group of Parishes forms a Rural District, and if the development of industry turns a Parish into a small town, that Parish may request the County Council to make it into an Urban District. The Councils of Rural and Urban Districts are elected in April by ballot; as only one-third of the Councillors retire at each annual election, three years are necessary for the re-election of the whole Council. The Chairman may be one of the Councillors, or chosen from outside; in either case he has the powers of a J.P. during his term of office. The Districts enjoy greater dignity and power than the Parish. They are used by the Central Government as housing authorities, and so have the power to acquire land and to build, and the duty of dealing with slums and overcrowding. As sanitary authorities they must deal with the water supply and sewerage, the cleaning of streets and footpaths, and removal of refuse. Some of these duties they may hand on to the Parishes; on the other hand, Parishes which consider that the District Council is not sufficiently energetic, may request the County Council to hold an enquiry, and perhaps take over the duties itself.

While trunk roads are maintained directly by the Ministry of



Transport, and other major roads by the Counties, the unclassified roads, for which no grant is made by the Ministry, must be maintained by Urban District Councils. In the countryside, although the County is the responsible authority, it frequently delegates the work to the Rural Districts.

For the performance of their tasks, District Councils often find it desirable to own, or share in the management of gas, water and electricity undertakings, or tramways. They also require a number of paid officials, e.g., a Clerk, Treasurer, Medical Officer of Health, Sanitary Inspector, and Surveyor of Highways. An Urban District Council has additional powers, such as that to provide allotments, libraries and public baths; and the Councils of Urban Districts whose population is over 20,000, control their own elementary schools. Where the population exceeds 25,000 a Stipendiary Magistrate can be appointed. So there is a gradation of powers till there is little to choose between the larger Urban Districts and the smaller Boroughs.

#### THE COUNTY.

The 1888 Act, when drawing the boundaries of the Administrative Counties, followed the ancient County boundaries, save that some Counties had to be divided to make convenient local Government areas—as Yorkshire into three Ridings or Sussex into East and West. Every Administrative County is divided into Electoral Divisions, each returning one Councillor at the elections, which are held once every three years at the beginning of March. The Councillors, when elected, choose a number of Aldermen equal to a third of their own number; frequently Councillors themselves are made Aldermen, and this necessitates a by-election to provide a new Councillor. The term Alderman goes back to Saxon times and originally meant men chosen for their age and experience to assist in Government. To-day the term has no reference to age, but as Aldermen hold office for six years, one-half retiring at the time of each Council election, they

do acquire special experience of Council work. By this means also, the services of people possessed of useful knowledge but not suitable for election campaigns can be secured. The Chairman is chosen in the same manner as the Chairman of a District Council, and has the same right of acting as a J.P. It is within the power of the Council to pay a salary to the Chairman, and travelling expenses incurred by members when doing Council work.

The County Council, as chief of local authorities, acts as an agent for the Central Government, co-operating with it to administer Public Assistance and Pensions, and exercising control over all the local authorities within the Administrative County. In this capacity, under the 1929 Local Government Act, it makes from time to time a survey of the County, and may recommend alterations in the boundaries of local authorities; these are considered by the Minister of Health, who will hear any objections from the authorities concerned and make a decision. One such survey has already been made throughout the country, and each County must make them in future at intervals of not less than ten years. While the Districts and Boroughs do most of the work under the Housing Acts, the County Council must see that this is adequately done, and may take over the task itself. The County co-ordinates and supplements the library service of the parishes, and organises elementary education in Rural Districts, together with all education above the elementary stage. Similarly, in the health services the County itself handles some matters, e.g., infectious diseases, and sees that the rest are properly performed by subordinate authorities. The position may be summarised by saying that the County Council's duty is to maintain a standard of efficiency throughout its area, both by encouraging the lesser authorities, and by exercising powers which they either do not possess, or cannot conveniently use.

In addition to this general work, the County Council must give attention to agricultural development. Among the many committees which the law requires a County Council to appoint, is an Agricultural Committee, most of whose members are

chosen by the Council, the remainder being appointed by the Minister of Agriculture. Thus the Ministry is able to operate the laws which deal with infectious diseases of animals, as the committees state what areas are affected, and arrange for killing the infected beasts, and for compensating their owners. There is also the constructive work of making life in the countryside more varied and attractive, and raising the standard of living of the agricultural worker. This is done by encouraging the growth of the industries most closely related to agriculture, and by providing small holdings and allotments, for which the Council has the power to acquire land compulsorily. Advanced education in agriculture is organised, and the children of labourers are helped by grants to take advantage of it. The need for this work naturally varies a great deal from one County to another, and in some regions it is sufficient for several Counties to form a joint Agricultural Committee.

The modern elective County Council has not entirely replaced the ancient administration through a Lord Lieutenant, and a High Sheriff appointed by the King, and through the Justices of the Peace. The office of Lord Lieutenant has great dignity and is usually held by a wealthy country gentleman; he has charge of the County records, and recommends suitable persons to be J.P.s. The High Sheriff has to make all the preparations necessary for the holding of Assizes. Both these officials, however, are chiefly occupied in ceremonial duties, the work of the High Sheriff being performed by a lawyer appointed to be Under Sheriff. The old and new forms of Government are brought together by the Standing Joint Committee, half of whose members are Justices, and half County Councillors. This Committee appoints the Chief Constable of the County, and organises a Police Force in accordance with the law and with the Home Office regulations. Chief Constables, unlike Superintendents and Inspectors, do not rise from the ranks of the Police, but are usually retired officers of the Armed Forces. The police are inspected annually by the Home Office, and if the result is

satisfactory, half the expenses will be met by the Central Government. Subject to this control, the County Police are responsible for all police duties within their area. As readers of detective stories know, the Chief Constable may call in the help of the C.I.D., when the problem is one of special difficulty or requires nation-wide police action. To create so expert a body as the C.I.D., and then limit its work at the will of local authorities may seem a surprising procedure; it arises from the desire for local independence, and the reluctance to give executive power to anyone appointed by the Central Government. When emergencies arise, or when a local function takes away many of the police away from their ordinary duties, the Justices can appoint any citizen as a Special Constable; they can even fine those who refuse to serve, though a recent use of this power provoked considerable criticism.

#### THE BOROUGH.

Of all local authorities, the Borough combines most fully ancient dignity and modern power. The Crown, in its struggle against the feudal nobility, sought to win the support of the townsfolk by granting them special privileges set forth in a Charter of Incorporation as a Borough. In the 17th century, however, most of the larger towns, particularly London, were opposed to the King, and Charles II, on his restoration, attempted to reduce their status, though without much success. To this day Boroughs are still created by Charter, and an Urban or Rural District which desires the honour, gives notice to its County Council and to the Minister of Health, and makes petition to the King. An enquiry is held in the District by the Minister, and the Judicial Committee of the Privy Council reports on the petition. The Charter may then be granted by an Order in Council, but if as few as five per cent. of the local ratepayers object, an Act of Parliament will be necessary. The day on which an Urban District becomes a Borough is welcomed by local celebrations, attended by the Mayors of neighbouring Boroughs,

and one of the most famous local personages is chosen to be the "Charter Mayor" in the first year of the Borough's life. Sir Josiah Stamp was thus chosen by the recently created Borough of Beckenham.

The Charter places the Government of the Borough in the hands of a Mayor, Aldermen and Councillors. The Borough is divided for election purposes into Wards, each returning three, or a multiple of three, Councillors; one-third of the Councillors retire each year, the elections being held on the 1st of November. The Councillors choose Aldermen to one-third of their number, as for County Councils. The Mayor is chosen from among the Councillors, or from outside, and begins his term of office on the traditional date, November 9th. The antiquity of Boroughs is illustrated by the dignity of the Mayor. Beside taking the Chair at Council meetings, he presides over the local Bench of J.P.s during his year of office, and continues to act as a J.P. for the following year. He is the first citizen of the Borough and represents it at all important ceremonies. He is expected to attend many functions, such as Chamber of Commerce dinners, Church Bazaars and meetings in support of local charities. To meet the expense a great many Boroughs avail themselves of their legal power to pay a salary. Although the Mayor's wife has no legal duties she plays, as Mayoress, a large part in the social activities, and if the Mayor is unmarried he will usually obtain the services of a woman relative; when, as often happens, there is a woman Mayor, another woman will act as Mayoress. So the prestige of a Mayor is much greater than that of a Chairman of a District Council, or of a County Council, despite the latter's greater powers; and while the alleged pomposity of Mayors is a frequent topic for comic papers, in real life the Mayor is always greeted with respect. It is said that one of the chief advantages secured by an Urban District on becoming a Borough, is that the added dignity of Mayoral and Aldermanic offices makes citizens more eager to secure them and perform them well. There is, of course, the danger that persons will be attracted who care more for a

chain and the title "Your Worship" than for public duty, but most experience shows that this preservation of old customs has a beneficial effect.

All Boroughs possess as a minimum the powers of a large Urban District Council, and smaller or greater additions are made according to the terms of the Charter. Some gain nothing by Incorporation except the added dignity, and the right to audit their own accounts, and to make by-laws in a few minor matters. Many have an Advisory Committee of their own to recommend the appointment of J.P.s who are thus separated from the County Justices; a Stipendiary Magistrate and a separate Court of Quarter Sessions may be appointed. When the population is over 20,000, the Borough may apply for a separate Police Force, though County Councils are now inclined to oppose such applications. The Boroughs that have obtained this right, exercise it through a Watch Committee composed of Councillors. For still larger Boroughs, further privileges may be added, and those with a population of over 75,000, may promote Bills in Parliament to turn themselves into *County Boroughs*. The powers of a County Borough may be simply described by saying that it combines those of a Borough and a County Council, though there are various duties, such as the supervision of Rural Districts, which obviously do not have to be performed. Towns of great size or historic importance occupy this rank; whatever County they may be in geographically, they are independent of the County Council. Any Borough, whether County or Municipal (the name given to non-County Boroughs) may by ancient custom or Royal Order be called a City, but this is only a dignity and involves no legal powers; it is regularly granted to towns which have a Cathedral. The Mayors of some of the most famous Cities are called Lord Mayors.

#### GENERAL SURVEY.

The mixture of old and new in local Government, the gradation of powers, and the development of the various districts, combine

to make a confusing picture. An example may serve to present the facts in their proper relation. In the geographical County of Warwickshire, there are about one-and-a-half million people; over a million of these in the City of Birmingham, and over 150,000 in the City of Coventry—both County Boroughs—manage the whole of their local affairs through their City Councils, leaving about 350,000 people in the Administrative County. Six Municipal Boroughs, ranging from Nuneaton with 45,000 to Stratford-on-Avon with 12,000, contain together some 165,000 people; these Boroughs have greater or less power according to their size and history. Leamington, for example, manages its own elementary schools, while Rugby, despite its larger population, does not, as it has only been a Borough since 1932. Three Urban Districts contain 50,000 people; the largest, Solihull, with 25,000, is bigger than some of the Boroughs. This leaves 135,000 people governed in Rural Districts and Parishes under the supervision of the County Council. These areas are adapted for Parliamentary purposes as follows: Birmingham is cut into twelve Parliamentary Borough Divisions, each returning one member, Coventry is a Parliamentary Borough with one member, and the Administrative County falls into four single-member County Divisions. Throughout the country, one of the most striking facts is the widely differing status of town districts; compare with the City dignity of Coventry the 200,000 people of Harrow still organised as an Urban District in the County of Middlesex. For while the dignity of a Borough is gratifying, it is also expensive. It is an open question whether greater freedom from County control will mean more efficient service; the County Council may have insufficient understanding of local problems, but, being a larger authority, can probably afford to employ more highly trained officials. An argument about applying for a Charter may be an undignified tussle between the partisans of an ambitious citizen who wants to be Mayor, and a group who do not mind what their local Government is like so long as it is cheap. But it may also be a

real conflict between two ideals—the civic pride which is most easily aroused in a smaller compact area, and the desire for expert centralized administration.

All the authorities so far described are general authorities, performing many duties. There remains a comparatively small number of *ad hoc* authorities, to manage ports and rivers, or to provide water supply. Some of these are created by the joint action of the ordinary local authorities; on others, both the public authorities and private companies are represented. They are suitable for handling technical problems, but, as 19th century experience has shown, the multiplication of them leads to confusion. To-day, the Central Government finds a substitute for them by requiring that particular local authorities shall act as housing authorities, education authorities, and so on. Thus a Borough Council can be several authorities in one, e.g., a sanitary, a highway and an education authority. It is for this reason that local authorities find it essential to divide into committees. The full working of this system, and its relation to the general problems of politics, can be best understood after a survey of the social services has been made.

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## CHAPTER XVIII

# THE SOCIAL WORK OF LOCAL AUTHORITIES

### Health

- General Health Measures
- Treatment of Illness
- Maternity and Child Welfare

### Education

- Elementary Education
- Higher Education

### Housing

### Planning

### Public Assistance

## HEALTH.

The public has learnt from experience the need for health services. The prevalence of Plague, and lesser diseases, in the Middle Ages is well known; the precautions taken to prevent their spread were sketchy, and although records show that municipalities fought constantly against the dirtying of streets, the connection between disease and dirt, and the dangers of infection, were not fully understood. As late as the end of the 18th century, hackney coaches plying for public hire, would take a sufferer to a fever hospital and return straightway to their regular work. It was, however, just at this period that considerable advances in medical knowledge occurred, of which, unfortunately, too little use was made when the factory towns of the Industrial Revolution were being built. Doctors protested in vain against the erection of ill-ventilated houses, subject to flooding, and unprovided with any sanitary arrangements, while the factories polluted the water supply with their refuse. Outbreaks of cholera showed the danger in which the country stood, and

in 1848 the General Board of Health, the parent of the present Ministry, was set up. Medical science made fresh discoveries not only as to the cure of diseases, but, which was even more useful, as to the causes of them, and the precautions which public authorities could take. Recently, there has been special emphasis on the need for proper care for children, since conditions in early life do much to determine a human being's constitution and power of resisting disease. Public health activities fall, therefore, into three sections. (1) general measures to prevent disease and promote health, (2) the treatment of the sick, (3) the care of mothers and children. Most of the law concerning these matters is consolidated in the Public Health Act, 1936. The provision of houses stands in a separate category because of its connection with transport and industry.

1. *General Health Measures.* The authorities for this purpose are the Borough and District Councils, the latter having power to delegate some of the work to Parishes. They must see that every house and school in their area has a supply of water for domestic purposes, and usually they meet the needs of factories and the total demand for water for all purposes. Some authorities set up their own water works and reservoirs, others make arrangements with a private company. It is usual to think of water as something which costs nothing, but in few parts of the country is the supply easy to arrange. Large towns face the obvious difficulty of finding a supply which is at once adequate, and so situated geographically that the engineering feat of conveying it to the town can be performed at reasonable cost. Lancashire, which once attracted industry by the abundance of its own water power, must now go so far afield as the Lake District. Yet it is the country districts with their poorer local authorities, and scattered populations, which face the greatest difficulty. Drought frequently occurs in the summer, and during the last three years the Central Government has been making special grants to the rural areas. One cause of the difficulty is the small size of the authorities, and the lack of proper co-ordination in

their work; possibly in the future water supply may become a national service.

Besides providing water, the local authorities take control of wells and other small natural supplies to see that they are fit for use, and make by-laws to protect the water from contamination and waste. The cost of the whole service is usually met by a special water rate. Urban authorities frequently encourage the use of water by providing baths and public laundries. As housing has improved, and more people have acquired baths and facilities for clothes-washing at home, they have come to make less use of this public service. A Borough Council which wants to see its baths well patronised, finds it necessary to equip them for swimming sports and provide turkish and foam baths, and other kinds of remedial treatment. When suitable land can be obtained, an open air swimming bath is usually a successful venture.

Similar problems of engineering and purchase of property beset the task of removing refuse and disposing of sewerage. The health authorities supervise all building to see that nothing is erected in places which the sewerage system has made unhealthy, and that no buildings lack sanitation. The house to house collection of refuse is a special urban problem. In some towns may be seen rows of dustbins in the streets awaiting collection; the bins may then be emptied into a horse-drawn cart with the top only half covered so that much refuse blows about the streets, which, if the local authority is equally unenthusiastic about open spaces, will be the chief playground for the children. In better governed towns there will be motor vehicles, so equipped that the whole task is performed with speed and cleanliness. Such are the criteria by which local Government is judged. Another source of disease is impure food. The health authorities appoint Sanitary Inspectors to visit shops, and take samples of food for the Public Analyst. A regular item on the agenda of Council meetings is the report on these activities.

2. *Treatment of illness.* For this section of the health services, the County and County Borough Councils are the responsible

authorities. The more dangerous infectious diseases, such as diphtheria, scarlet fever, and the fortunately more rare typhus and smallpox are "notifiable", i.e., the person in whose house they occur must inform the local Medical Officer of Health, and the responsible authority has to provide isolation hospitals, arrange for the removal of patients, disinfect the house, and enforce regulations to prevent the spread of the disease. The law also requires local authorities to provide for sufferers from tuberculosis. People afflicted with unsound minds may be cared for either in a county mental hospital, or in a private home, but the local authority is responsible for humane treatment. As to the treatment of ordinary disease and of accidents, the hospitals under public control were, until the 1929 Act, part of the Poor Law service. Since then the Councils have been gradually turning them into general hospitals, and patients are charged for treatment according to their means. This service is run in co-operation with voluntary hospitals, some Councils being much more active than others. Whether a voluntary hospital service is desirable is a disputed question, both among the medical profession and the public. Many people dislike the idea of ending an honourable tradition of charity, and argue that a public institution is so impersonal that it would not call forth the same service as is given by hospital staffs who feel themselves partners in a charitable work. Others point to the excellent service rendered by many public hospitals; once under public control, a hospital has an assured and definite income, and as medical treatment makes increasing use of expensive apparatus, the importance of this fact grows.

3. *Maternity and child welfare.* This newest branch of health services scarcely existed before the beginning of the twentieth century. Among the large families of Victorian times, there were few which had not been deprived of some of their members at an early age, and a certain fatalism about children's diseases hindered progress. Many people took the view that for the public authority to take a hand in the care of children was an imperti-

nence, and would lead parents to forget their responsibilities; but a declining birth rate helped to change opinion, and the growth of medical knowledge made it plain that there were many matters on which even the most dutiful mother could profit by expert advice. The more progressive authorities took advantage of an Act of 1907 to develop child welfare work, and by the end of the War all authorities were taking some action. The 1936 Act makes those authorities which have charge of education responsible also for welfare, and requires them to appoint a Maternity and Child Welfare Committee, of which at least two members must be women. The committee provides advice and medical treatment through clinics and visitors to homes, and can supply milk free or at cheap rates. The service, like that of hospitals, is run in co-operation with voluntary work. Some authorities content themselves when seeing that there is a reasonable number of voluntary clinics, and helping them to secure premises; others build clinics and maternity homes of their own. The infantile mortality rate, i.e., the proportion of children who die in their first year was in 1936 fifty-nine per thousand, less than half of what it was at the beginning of the century. Poverty and bad housing have a great effect on this figure; but some estimate of a welfare authority's efficiency can be formed by comparing the present rate with that for previous years in the same area. More than half the mothers of young children attend welfare centres, and the health visitors keep in touch with all but a small proportion of such families. At five years of age the children become the care of the Education Authority; one defect in present arrangements is the lack of efficient attention between the ages of one and five. Local Authorities have recently been urged by the Ministry of Health to make greater use of their powers and remedy this defect.

All health activities are supervised by the authority's Medical Officer of Health. His annual report gives a good indication of the effect of the authority's policy in health, housing and similar services. He cannot be dismissed without the consent of the

Minister of Health, so need not fear to point out facts which may be distasteful to his immediate employers.

#### EDUCATION.

Public education, like the public health services, began as a matter of necessity and has been developed by public spirited people as something desirable in itself. Early in the nineteenth century the churches became alarmed at the widespread ignorance of religion among the growing population, and the State began its activities by giving grants to religious bodies. This has had the unfortunate result that every extension of education has been marked by arguments among different denominations as to their claim on public funds. Employers found that modern industry needed people who could read, write and count; the granting of the vote in 1867 to working people provoked the famous remark "we must educate our masters". The 1870 Education Act, created *ad hoc* School Boards to supplement the work of the denominational schools, and later Acts made education free and compulsory. At this stage, however, education was of an unimaginative kind, and the official attitude is illustrated by the provision that children might leave school at an earlier age than usual if they had reached a given standard. A minimum of education was recognised as necessary, but there was little idea of equipping everyone with the training which would serve to bring out his talents to the full; for the cleverer the child was, the earlier was it likely to leave school. It is now realised that education should not only be vocational, training pupils to earn a living, but cultural, fitting them to play a part in the Government of the country, and increasing their happiness through the development of their faculties. The 1902 Act abolished the School Boards, arranged for secondary education in every district, and improved the quality of education. Further improvements, including the raising of the school leaving age to fourteen, were made by the 1918 Act, and in 1921 came a Consolidating Act which is the basis of the present system. County Boroughs are the authorities for all education in their

areas; County Councils have charge of secondary education and elementary education outside the larger boroughs and urban districts. Since 1931, however, areas which reach the status of a Borough or an Urban District, do not become education authorities, and some Districts have voluntarily handed the work to the County.

1. *Elementary Education.* All children are compelled by law to attend elementary schools from the age of five to the end of the term in which their fourteenth birthday occurs, unless they are receiving suitable instruction elsewhere. For physically and mentally defective children there are special schools where they stay till they are sixteen. The authorities must provide education between these ages, free of charge, appoint Attendance Officers (still frequently referred to as "School Board men") and bring parents who keep their children from school before the magistrates. A fine may be inflicted, and in extreme cases, the child may be sent to one of the Industrial Schools controlled by the Home Office. The majority of elementary schools are "provided", i.e., entirely under the control of the local education authority, which builds and furnishes them, and appoints the teachers. For every group of schools, there is a body of managers—voluntary workers appointed by the education authority, and by minor authorities in the district. The managers make regular visits to see that laws and by-laws are kept, recommend appointments of teachers, attend the school functions, and so act as a link between the staffs of schools, and the parents and ratepayers. The only religious teaching in provided schools is the study of the Bible which must be pursued without any attempt to inculcate the principles of any particular denomination. There remain the non-provided schools, which have been erected by religious bodies—chiefly the Church of England and the Roman Catholic Church—but must be maintained by the local authority. Here denominational religious instruction is given and teachers are appointed for that purpose by the school managers, a majority of whom represent the religious body; all other instruction is

under the control of the local authority. Plans to increase education which require fresh schools are always complicated by the requests of the denominations for financial help, so that parents shall not have to send their children to schools whose religious instruction they consider inadequate. Beside the "three R's" elementary education comprises history, geography, nature study, physical exercises, handicrafts and domestic subjects; the local authority decides how much freedom to give to the head teachers, but the syllabuses are supervised by the local Director of Education, and by the Board of Education. Great development has occurred since the War in a variety of subjects, and the parent who remembers his own limited education is often surprised at the number of activities his children now pursue. As a result, school discipline has been humanised, and the suspicion and hostility with which parents used to regard the education authority is fading. There can be no doubt that the great majority of children enjoy school, though as the age of fourteen approaches there is a natural tendency, particularly among boys, to look forward to the time when they will be earning money.

In 1924 a Committee on Education was appointed, under the Chairmanship of the late Sir Henry Hadow. It dealt, in a series of reports, with the education of children of various ages: in accordance with its proposals, schools are now being re-organised, so that at the age of eleven the children are divided according to their abilities. Some proceed to secondary schools, others to the advanced type of elementary education, given in central schools where foreign languages and commercial subjects are added to the curriculum. Those for whom examination success does not open either of these doors, or whose parents cannot afford to pay for further education, go on to senior elementary schools. It was the intention of the Hadow Committee that the school leaving age should be raised to fifteen, and until this is done the senior course cannot be fully developed. An Act which is to come into force in 1939 does raise the age to fifteen, but children who can find "beneficial employment" will still leave at fourteen, and it



is expected that these will be a large proportion of the whole. It is usually easy for children leaving school to find work, but often they will be replaced when they begin to want a higher wage by fresh school leavers, and so find themselves without work or training. This is a powerful argument for raising the age, quite apart from the fact that at fourteen the child's faculties have only begun to develop. On the other hand, many parents, though they know that further education would enable their children to get better employment, find a real difficulty in keeping them at school, when they might be adding to the family income; this could be overcome if maintenance allowances were granted for the years of school life after fourteen.

In addition to classroom instruction, the authorities have to arrange for regular medical inspection, and they can provide school meals at a small charge, or free when the parents are poor. Further possible extensions of activity are the arrangements of school camps and journeys, and the provision of nursery schools for children under five. The Children and Young Persons Act imposed more duties on the elementary education authorities; they must see that the restrictions on the employment of children are observed, and must co-operate with the Juvenile Courts. In all their activities the authorities are greatly helped by voluntary workers serving as School Managers, or on Care Committees, or helping school leavers to obtain good employment; and most teachers organise games and other school activities in their leisure time.

There are private schools, run for profit, for children of elementary school age, whose parents care to pay. Some, including those which prepare pupils for the Public Schools, maintain a high standard, but there are many which struggle along with inadequate staff and equipment.

2. *Higher Education.* The secondary schools keep their pupils till at least the age of sixteen; a number stay till they are eighteen or nineteen, and then often proceed to a University. The more advanced study which distinguishes secondary education requires

smaller classes, more varied and expensive equipment, and teachers with special qualifications. The curriculum of the ordinary secondary school is largely determined by the requirements of the General and Higher School Examinations, which the Universities control. While this system encourages the school to maintain a reasonable standard of work, it is doubtful whether the needs of all the children are satisfactorily met, and the form of the examinations is being reconsidered. Most secondary schools are entirely controlled by local authorities, but there are a number which, originally private foundations, are now aided from public funds; these are managed by Boards of Governors on which the local education authorities and the foundations are represented. Some of the oldest secondary schools are private, or occasionally Royal foundations, many of them dating from the sixteenth century, when the prosperous classes were anxious to secure for their children the benefits of the new learning. A certain number are still independent of public funds or control, and these, together with some of the aided schools are known as the Public Schools—a name which once distinguished them from schools run for private profit, but which, with the rise of publicly controlled secondary schools, has become rather confusing.

All secondary schools charge fees, but the local education authorities provide scholarships and free places which enable some of the children of even the poorest parents to attend. At publicly controlled secondary schools, the great majority of pupils come from elementary schools, whence also a limited number make their way into the Public Schools. The latter, however, are mainly recruited from the private preparatory schools. There are thus two distinct systems of education, for the richer and poorer classes respectively. As to quality of education, there is little to choose between Public Schools and others, though the greater wealth of some of the former gives them an advantage. A Public School education is regarded as a social distinction, and is a help in obtaining certain kinds of employment; the political implications of this have already been remarked.

Trade, art and technical schools provide higher education in subjects for which the ordinary secondary school cannot satisfactorily cater. A number of pupils, when they have begun work in industry or commerce, continue part time education at evening institutes, or, if their employment permits, at day continuation schools. It was the original intention of the 1918 Act to make attendance at day continuation schools obligatory, but these provisions were never enforced. At present, secondary education, both whole and part time, is not available to more than one quarter of the children of suitable age and it is the desire of most educationists to make it universal, raising the school leaving age to sixteen. Such an extension would involve a change in school curricula; to-day, secondary education is in the main a necessary prelude to the better paid jobs; it could become an instrument for raising the general intelligence of the nation, in accordance with the needs of an age of increased leisure.

All publicly controlled or aided schools are inspected both by the local education authority, and by the Board of Education, which makes grants provided the service is efficient. The great majority of other schools also submit themselves to the Board's inspection, since this keeps them in touch with the general progress of education.

Universities originate from private benefactions, but receive considerable help from the State, and co-operate with local authorities in providing adult education classes, and in training teachers.

For adult education there is a large and growing demand. Some people wish to acquire special knowledge which will help them to obtain better-paid employment, and make progress in their work. Many desire a wider knowledge of the arts, and the social and natural sciences, either for pleasure or to enable them to take a greater interest in public affairs. The local authorities try to meet this need by establishing institutes, co-operating with the Universities and assisting colleges founded by private people to extend their activities. A private body the Workers Educational

Association, takes an active part in this work: and the co-operation of trade unions, political parties and other organisations is sought. There is thus extensive opportunity, for those who cannot go to a University, to secure a comparable education; or, at the least, to find an interesting and profitable use for their leisure. Special effort has been made to promote the use of these facilities by unemployed people, so that they shall not feel that separation from the life of human society which is one of the most dangerous results of unemployment.

The quality of a local education authority may be judged by the school buildings and equipment, and the opportunities for higher and special education which it provides, and by the extent of its co-operation with parents, teachers, and employers. In all these respects, there are wide differences throughout the country.

#### HOUSING.

Collective action about housing is in origin a department of health activities. Bad houses, like bad food, cause ill health, and the condition of houses offered for sale or rent must be subject to inspection as much as food in shops. The principle, however, is not so easily applied to housing; if any dwelling is destroyed as unfit for habitation, the occupants must be re-housed; the provision of houses by local authorities creates complex financial problems; attempts to establish a high standard of building, and to check exorbitant rents, may discourage private enterprise from house building. The growth and movement of population and the wartime neglect of housing, add to the difficulties. Since the War there have been some half-dozen notable housing Acts, most of whose provisions have been summarised in the Housing Act 1936.

The housing authorities are the Borough and District Councils. Their first duty is the inspection of houses, to see that they are fit to live in, and from the information thus obtained, the authority can decide what further policy is necessary. The Medical Officer of Health is responsible for seeing that the inspections are made

by the Sanitary Inspectors, and reports to his authority. The authority, having considered the report, can order the owner of an insanitary house to carry out such repairs as will make it fit to live in, or, if it is past repair, a demolition order will be made. If these orders are not obeyed the local authority can take the matter to court, and in the last resort may itself repair or demolish the houses at the owner's expense. The zeal of an authority can be judged by the staff it provides for this work, and by the regularity of its inspections; yet inspection and the maintenance of sanitation standards are no more than the beginning of the problem. The authority may find whole areas so bad that the only way of dealing with them is to clear every building off the site. These are the slums which stand as a reproach to Britain. They exist because of a lack of foresight and public spirit in the past. Some houses have been slums ever since they were built, because they lack proper ventilation, water supply, or sanitation; others, made of inferior materials, become slums through neglect. Those who live in them fight a continual losing battle against dirt, and often against rats and other vermin, so that it seems hardly worth while to maintain self respect or cleanly habits. Few districts are entirely free from them, and in some of the larger towns there are many acres of uninterrupted slums. Local authorities now possess sufficient powers to prevent the erection of buildings which would be the slums of the future; but in areas where recently many houses have been put up by speculative builders, these powers have not always been used as fully as the public interest required.

When the local authority agrees with its Medical Officer of Health that an area is of this character, it will make a clearance order. Sometimes the owners are left to clear the site themselves, but the authority has power to purchase the land. Clearance orders require the sanction of the Minister of Health, and when, as frequently happens, the owners of the property protest, an enquiry will be held, at which the statements of those who live in the area will be an important part of the evidence. Sometimes

people who have been living even in the worst of houses for a long time, show a reluctance to move, but it is particularly noticeable that slum dwellers who have young children are anxious to leave if there is other accommodation, not too far from their work and reasonably cheap. For the housing problem, though it has several aspects, cannot be divided into watertight compartments; unless the destruction of bad houses is supplemented by the provision of cheap accommodation, overcrowding must result. Accordingly, it is open to a local authority to declare a district where at least one-third of the houses are slums, as a Re-development Area. The authority must then submit to the Ministry of Health a plan showing how it will arrange for houses, streets and open spaces in that area in the future. Some of the redevelopment may be done by private agencies, but the authority is responsible for seeing that all the land is put to a suitable use. Since 1930, another method of treatment is available, by which mixed districts containing some houses fit for demolition, and others requiring only repair, may be declared as Improvement Areas. The authority which takes this action must issue the appropriate orders to the property owners, and see that they are enforced.

It is clear that any assault on the slums means an interference with what used to be called "the right of a man to do as he likes with his own". No such right, in an unconditional form, can exist in a civilised community, and where a man's property is the houses in which other people live, there is special need for action by the public authorities. But a State which bases its economy on private enterprise must scrutinise carefully any restriction on private property rights. Throughout the whole process of slum clearance, local authorities have to meet the claims of the property owners, who can appeal to the Ministry of Health, and on some issues can take the matter to court. No compensation is paid for the demolished houses themselves—any more than, as one Minister of Health has put it, compensation is paid to the butcher whose tainted meat is destroyed—but there is room

for considerable argument about the value of the site. Some precautions are necessary; it is obviously unfair that a man should be required to effect repairs and then be told soon afterwards that even so the house is not fit to live in; and against this there is a legal safeguard. But as the law now stands, it is more likely to conflict with the public interest by delaying local authorities, than by injuring owners of property.

Houses which are in themselves satisfactory, may be overcrowded to a degree that threatens health and decency. The 1936 Act gives a legal definition of an overcrowded house; as one in which the number of persons exceeds two per room. For this reckoning, children under ten count as half a person, and babies under one, not at all; on the other hand, the permitted number is less for rooms under 110 square feet in area, and in dwellings containing between one and five rooms. Where the local authorities find legal overcrowding, they must require the householder to put an end to it, and prosecute him if he has not done so after three months. During 1936, the local authorities carried out an inspection of nine million houses, of which only 3.8 per cent. appeared to be overcrowded. But the standard set is not high, and many houses are overcrowded to the point of serious inconvenience while keeping just within the legal limit. Moreover, the figure quoted is an average, and does not by itself give a true picture; in Sunderland, for example, 20 per cent. of the families were overcrowded, while in Bournemouth the percentage was only 0.3.

Unless there is an abundant supply of new houses, slum clearance is only of limited value, and the punishment of overcrowding an absurdity. Since the War, over three million houses have been built, and one-third of the population rehoused—an accomplishment without parallel in any other country. But, while the great majority of these are cheap enough for the better-paid sections of the working class, the supply for the poorer sections, who suffer most from overcrowding, has been seriously inadequate. It is not profitable for private enterprise to build

proper houses for a rent of seven or eight shillings a week and successive Governments have tried to meet this situation by assisting private enterprise, and by granting subsidies to local authorities in respect of new houses built. Conservative Governments have put their faith chiefly in private, and Labour Governments in public enterprise; the alternations of policy have increased the difficulties. Skilled workers in the building industry will be naturally reluctant to agree to any increase in their numbers by relaxation of trade union rules, unless there is an assured policy of continuous building to provide employment. Throughout the country to-day, there are houses built by local authorities in accordance with the provisions of the 1919 Addison Act, the 1923 Chamberlain Act, the 1924 Wheatley Act, and the 1930 Greenwood Act. Each of these Acts made grants to local authorities, and the 1935 Act provided up to £5 for twenty years, in respect to every house built to relieve overcrowding. In the countryside the grant was from £2 to £8, while the difficulties of large towns, where land is expensive, were met by special grants for flats. Since this last Act came into force, the local authorities have not been obliged to keep separate accounts for the houses built under successive Acts, but pay all the subsidies into a Housing Revenue Account. The authorities are now required to consider housing conditions from time to time, and frame such schemes of house building as they think necessary. These schemes have to be submitted for the approval of the Minister of Health, and the local authority then proceeds to build and to make rules concerning rent, conditions of tenancy, and the management of the property. There is much variety in, and argument about the type of accommodation provided. Flats are open to criticism because they do not secure as much privacy for the individual family as houses; not all the tenants can have a garden of their own; those on the top floor of a five storey block find the climb laborious, particularly if there are young children and perambulators. A crowded city, however, has to choose between flats near the centre and houses on the outskirts, where



the land is cheaper, but where the tenants will be burdened with travelling expenses. In deciding the size of rooms, the quality of materials, and the amenities of an estate, a balance has to be struck between the need to keep costs—and consequently rents—down, and the desirability of planning dwellings in which the tenants can take a pride, and which will be in future a credit to the locality. It is frequently suggested that when people are moved from slums into good houses, they turn the latter into slums by their dirty habits. The behaviour of a handful of tenants has provided material for innumerable stories of the “coals in the bath” type; but experience shows that the enormous majority of families will take good care of any dwelling worth caring for. One of the most serious problems is concerned with the incomes of the tenants. It is not the business of a local authority to provide, out of a public subsidy, dwellings for people who could, without inconvenience, get privately built accommodation and pay a rent determined on ordinary commercial principles. On the other hand, an authority cannot admit a tenant without reasonable grounds for believing that he will be able to pay the rent. A number of authorities charge different rents for the same accommodation. These differential rents may be graded on a definite scale according to the tenants’ incomes, or they may be only temporary rebates to those who have fallen out of work. The system has the great advantage of ensuring that the subsidy is applied for the benefit of those who most need it, and experience shows that it can be successfully worked. It does, however, make the administration of municipal housing more difficult, and, unless the details are both just and easily understood, it can create ill-feeling among tenants who see their neighbours paying a smaller rent than themselves.

#### PLANNING.

Although the post-war building of houses has not yet removed slums or overcrowding, it has been great enough to change the face of the country in many areas. Combined with the develop-

ment of industry and the extension of the road system, it has forced on the consideration of local authorities the need for planned development of land. Under the 1932 Town and Country Planning Act, the authorities may,—and if the Ministry of Health requires it, must—prepare schemes for the land in their areas where new building is proceeding. With the object of preserving the health, beauty, and historical interest of a district, the scheme can protect trees, open spaces and buildings from interference, and control the character of new buildings. There are powers to prevent the disfigurement of the countryside by unsightly advertisement, and these are extended by an Act of 1935. The schemes require the Minister's approval, and agreement must be reached with property owners about compensation for land, or for hindrance to their plans. People aggrieved by regulations made under the scheme, may test the necessity and fairness of them by going to court. Although by now one-third of the area of Britain is in the process of planning, the legal difficulties and vested interests cause the work to go slowly, and a good deal of mischief has already been done; sections of the New Forest, for example, have suffered severely from the uncontrolled erection of bungalows, shops and corrugated iron shacks. If local authorities are going to make increasing use of their powers, they will need the advice of competent architects, such as the smaller authorities are not always able to secure. The Act provides for joint committees to be formed from several authorities, but the full development of planning probably requires a larger local authority than is to be found in the present system.

#### PUBLIC ASSISTANCE.

The relief of the poor was originally the duty of the Parish, and later of Guardians, elected *ad hoc* by Unions of Parishes. The 1929 Act abolished the Boards of Guardians, and transferred their powers to the County and County Borough Councils. The famous Poor Law Act of 1601 recognised that the poor should be classified according to the cause of their poverty, and the treat-

ment adapted to each group, but this principle was often disregarded in practice. The aim of reformers in modern times has been to "break up the Poor Law" and have the aged, the infirm, the unemployed and other groups, each treated in an appropriate manner. This aim is gradually being achieved. Old Age Pensions provide some help for part of the problem; hospitals are becoming a separate local Government service; welfare and education authorities deal with the young. Part II of the 1934 Unemployment Act has made the care of the able-bodied unemployed a national concern. The Public Assistance Committees which the County Councils are required to set up, are left with the care of those whose poverty is not due to unemployment, and who have not, for one reason or another, been transferred to other Committees. To these persons, who number about one and a quarter million, the authorities may administer out-relief, i.e., money or tickets with which food, etc., can be obtained. The amount of relief must be determined by considering what means either the applicant, or the members of his family possess. The Ministry of Health has issued regulations telling the authorities how far they are to take into account money which applicants may be getting from health insurance, friendly societies, and the like. The aim of the Central Government is to make the condition of recipients of Public Assistance, similar to that of the unemployed who come under the Unemployment Assistance Board. Local authorities however, still exercise considerable discretion in their interpretation of the law, and in the provision of special forms of relief, such as winter coal. For the administration of Public Assistance, a number of Relieving Officers are employed to whom the destitute make application; throughout the country are committees appointed by the Councils, who determine each case subject to the Council's instructions. So large is the problem, in some areas, that the Councils have to be careful that real control does not slip out of their hands. Continued poverty does not as a rule improve a man's powers of stating his case clearly, and Relieving Officers and local committees, harassed by the number

of cases, may be tempted to deal with them as rapidly as possible without much sympathy, or anxiety to see that the applicant gets his full legal rights. The authorities may refuse out-relief, and tell the applicant that if he wants help he must go into an Institution, previously called the Workhouse. This treatment is not, as a rule, desirable for married men, and will not be much use to anyone, unless it provides opportunities for industrial training. The old-fashioned Workhouse was primarily planned to make life so unpleasant that no one would go there if they could help it. The objects of modern policy are humane treatment and help to regain employment, but the amount of progress made along this road depends on the character of the local authority.

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## CHAPTER XIX

# METHODS AND PROBLEMS OF LOCAL GOVERNMENT

- Finance
  - Rates
  - Grants-in-Aid
  - Municipal Property and Enterprise
  - Loans
  - Management
- Committees and Meetings
- Councillors
- Officers
- Parties
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### FINANCE.

The local authorities spend every year a sum approaching £500,000,000. As they are not sovereign bodies the ways in which this money is raised and the accounts are kept, are fixed by law. The best known source of local income is (1) *Rates*. These are levied by the rating authorities, which are the Boroughs and Districts. The Counties and Parishes secure their money by making a precept on the rating authorities, i.e., requiring them to collect a certain amount in addition to their own needs; for ordinary purposes, a Parish Council cannot require more than is produced by a fourpenny rate, but a Parish Meeting may double this sum. Every rating authority sets up a Rating Committee, which has to decide the rateable value of all properties, or hereditaments, as they are called, in the area. This is an extremely complicated task, and the method by which it is tackled varies with the different types of property. Where the property is of a

kind that is commonly let at a rent, e.g., a house, the rent which a tenant would pay is the starting point of calculation; alternatively, the cost of site and building will be calculated, and the rateable value will be the annual interest on this total. Another method is to take the amount of money which the property has earned in previous years as the basis. When, from the values so calculated, deductions have been made to meet the cost of keeping the premises in repair, a figure appears known as the rateable value. Then, if the rateable value of a house is, for example, £100, a penny rate means that the occupier will pay 8s. 4d. a year. Areas which contain depressed industries, and many poor and unemployed people, will clearly have the heaviest expenditure on social services; and the high rates which they are obliged to charge will discourage new industry. So the whole area may be caught in a vicious circle, the high rates and the poverty being both cause and effect of each other. Such a situation has been partly remedied by the de-rating policy of the 1929 Act, which provided that no rates should be charged on agricultural properties, and that factories, workshops, and freight transport undertakings should be reckoned at one quarter of their rateable value. The result of the Rating Committee's work is a Valuation List, which informs each owner of a property, of the sum at which it has been assessed. Those who consider the assessment too high, can appeal to the Assessments Committee. The County is divided into Assessment Areas, which are sometimes the same as Rating Areas, but country districts are grouped for this purpose by the County Councils. The Assessments Committee is composed of people appointed by the rating authority, and by the County Council; County Boroughs appoint their own Committee, but one-third of the members will not be Councillors. No one may belong both to a Rating and an Assessment Committee, so that the latter may be an independent body capable of judging the appeals fairly. The County Councils further appoint Valuation Committees to survey the work of assessment, and try to get the same methods adopted throughout the County.

The Valuation List has to be revised every five years, and after each Quinquennial Valuation there will be a crop of appeals for the Assessments Committees to hear. There is a right of further appeal to Quarter Sessions, but this is much less frequently used.

Rates are paid by the occupiers of premises, and most occupants of smaller houses pay them, together with the rent, to the landlord, who hands them on to the local authority. If people find that rates throughout the country are rising they will be less inclined to buy or rent houses, and the slowing down of building will mean a smaller demand for land, and less rent for the ground landlord. So, though the question of the full effect of rates is disputed amongst economists, it can be said that any change in the rate is felt at first by the occupiers of the premises, but that in the long run the burden is shared between them and the ground landlords. One obvious injustice in rating is that the size of a man's house is not necessarily an indication of what he can afford to pay; a rich man may occupy a small house because he prefers to spend his money in other ways. The present system, however, is likely to persist, no doubt with constant modification, for some time to come, because of the difficulty of devising an alternative. If people were rated as they are taxed, according to their total income, would they pay to the local authority for the area in which they live, or where they worked, or where the property from which they drew their income was situated? No doubt it could be arranged that one of these should collect the rate, and then make payments to the others, but the complexities would be great, and the advantages to be gained have not yet been shown to be large enough to make the change worth while. Another suggestion is to transform rates into a local tax on the value of land. This would provide the community with a satisfactory income, and any increase in the prosperity and land values of the area would directly benefit the local authority. Here also, the chief difficulty is that of administration. Meanwhile the drawbacks of present rating are reduced by the existence of other sources of local revenue.

(2) *Grants-in-Aid*. If a local authority keeps its roads in good repair, and its streets well lit, the people who benefit most are the local residents, and it is reasonable that they should pay at least part of the cost. But they are not the only beneficiaries; the population of Manchester, for example, is supplied with goods carried to it along roads in the care of the surrounding authorities. An authority which pursues an active education policy produces a supply of well-trained citizens who, as they grow older, may scatter all over the country. National and local benefits cannot be separated into watertight compartments, and in recognition of this fact the Central Government makes grants to the local authorities. Before the 1929 Act there were many separate grants, each for some service managed by the local authorities. The de-rating policy reduced the yield of the rates, so that some compensation from the Central Government was necessary, and this provided the opportunity for a general revision. It was decided that a General Aid Grant should be made by the Ministry of Health for the Health, Welfare, Highway and Public Assistance services; its amount, for each County, to be determined by a formula which took into account the population, the total rateable value, the number of children under five, the proportion of unemployed, and the number of miles of road. The amounts now paid are a compromise between this formula and the amounts lost through de-rating; the formula will come into full operation in 1947 and the size of the grant will be reconsidered every five years. The General Aid Grant is paid, in the first instance, to Counties and County Boroughs; the former distribute it to their subordinate authorities according to population, urban areas receiving five times as much per head as rural areas. The Ministry of Health also makes the grants for housing already described. Another formula fixes the grant paid by the Board of Education to local education authorities; it is based on the number of children attending school, the rateable value of the area, and a percentage of the cost of various education services. Half the expenditure on Higher education is met by grant. This principle, that the grant



should be a percentage of expenditure approved by the Central Government, is adopted by the Home Office, and by the Ministries of Transport, Labour, and Agriculture for the services with which they are concerned, and by the Treasury for the task of compiling the Voting Register; the percentages themselves vary with the type of service. In total, Grants-in-Aid provide the local authorities with approximately £125,000,000.

(3) *Municipal property and enterprise.* Local authorities, like the Central Government, can own property, and carry on undertakings which bring in an income. Many towns receive rents from land, and under the 1932 Planning Act this practice is spreading. Charges are made for baths and similar services; it is not intended that these should cover the cost but they help to reduce the burden on the rates. But when the municipality runs an electricity undertaking, or a tramway service, it is expected that the charge will at least cover the cost. It may, indeed, be so arranged as to provide a surplus, but this means that the people who use the services are subjected to a kind of local indirect tax, which, if they form only a section of the community, will be unjust. Most municipal services are of a kind that the great majority of people use, and which would otherwise have to be run by a private monopoly. If, without charging higher prices than private enterprise would charge, the municipality can make a surplus, there is ground for general congratulation. Municipal trading is sometimes extended beyond public utilities; the electrical undertaking, for example, may supply electric fittings as well as power, and special Acts have enabled particular municipalities to run services other than those generally permitted. Most famous of these is the Birmingham Municipal Savings Bank in which nearly one-third of the city's population are depositors. When local authorities are carrying out street repairs or other work, they can decide to employ "direct labour", i.e., conduct the work themselves, instead of inviting tenders from private contractors. All these activities are the subject of controversy, in which some of the same arguments appear as in the discussion of the

Capitalism-Socialism issue. But the immediate question for local residents is simply, who provides the service most cheaply and efficiently? The answer can only be found by examining the facts and figures of each case. If the evidence is in favour of the local authority, the citizens can enjoy either lower rates, or lower prices for the service; if the latter, they will have more money to spend as they please, and so add to the prosperity of their area.

(4) *Loans.* Much of the expenditure of a local authority recurs every year, and must be met out of annual revenue from one of the sources mentioned above. Often, however, building has to be done, or public services started or re-equipped, and the benefits of the capital expenditure will continue for many years—benefits either of added health and comfort, or actual money revenue. For such purposes, it is financially sound to borrow money, and the authorities do this by getting an overdraft from the bank like a private person, or issuing stock like a company, or mortgaging some of the municipal property. Since the repayment of loans is guaranteed by the Government, local authorities find that they can borrow more easily and cheaply than private concerns. Naturally, the law describes the purposes for which loans may be raised, and the conditions of repayment. For every loan permission must be obtained from the appropriate Government Department, which sees that the law is being observed, and approves the details. Most loans have to be repaid in sixty years or less, but for housing loans a maximum of eighty years is allowed. The total debt of local authorities reaches nearly £1,500,000,000, about one-third of which is for housing.

*Management.* A County Council is compelled by law to appoint a Finance Committee, and other local authorities, except Parishes, almost invariably do the same. Every year, the other committees, in charge of activities which cause expenditure, frame estimates which the Finance Committee examines, generally trying to see if they can be reduced without fundamental alteration of the policy approved by the Council. The Finance Committee, in

co-operation with the Treasurer, a paid official, has then to ensure that no money is spent except for the purposes which the Council has sanctioned, and to consider the raising of revenue. In March of every year, the chairman of the Finance Committee makes a speech to the Council, comparable to the Budget Speech of the Chancellor of the Exchequer. He describes the Council's policy, the expense which it involves, and the receipts from sources other than rates. From this follows the amount which the Council, if it is a precepting authority, will have to require from the rating authority. The latter must add these precepts on to its own needs, and decide what rate in the £ to levy. Economy, in local as in national Government, is in part the careful comparison of the benefits conferred by public service, with those which the individual ratepayers would obtain if the money were left in their pockets, and this is a question which divides parties. But economy is also the determination to see that a given standard of service is provided at the least cost. The Council will be helped in this part of its work if it obtains, from its officials, statistics of the cost of street lighting per mile, hospital treatment per patient, and the like. These can be compared with those of other authorities providing services of a similar quality; but they need to be supplemented by figures showing the advantages of the services to the ratepayers—e.g., the numbers using the baths and public libraries, the death and infant mortality rates, and the prevalence of serious diseases.

The annual Audit helps to secure economy, but its chief purpose is to see that money is not devoted to projects which are *ultra vires*, beyond the legal powers of a local authority, or spent with such extravagance that the needs of the legal services are obviously exceeded. The country is divided into Audit Districts, for each of which an Auditor is appointed and paid by the Ministry of Health. The Clerks of County, District, and Parish Councils, must present to him a statement of their accounts, up to the previous 31st of March. It must show all the money received and spent in the year, the separate figures for the different services,

and the indebtedness of the Council. If the Auditor finds any illegal expenditure, he surcharges it, i.e., requires the Councillors to pay it themselves; the Council can appeal from such a decision, either to the Minister of Health, or to the High Court. The Audit is held in public, so that any ratepayer can attend, and express to the Auditor his opinion about the legality of any item. Some Boroughs submit their accounts to the District Auditor, others have and use the right of a separate Audit; two Auditors, not members of the Council, are then elected by the ratepayers, and a third is appointed from among the Councillors by the Mayor. A third method, for Boroughs, is to employ the services of a professional Auditor. All local authorities must publish a statement of their accounts for the ratepayers' benefit, and send in a return to the Minister of Health.

#### COMMITTEES AND MEETINGS.

Local authorities are sometimes said to be administrative and not legislative bodies. Certainly they cannot alter the law of the land, and can only add to it such by-laws as the Government permits, and as are necessary for their work. But the phrase must not be taken to mean that they are mere tools of the Central Government. A council bases its actions on a series of decisions as to how far it will use its powers; the making of these decisions is comparable to a legislative act. Administration, however, predominates, and for this reason Councillors group themselves into committees suitable in size for detailed discussion. Some committees are Statutory, i.e., the law requires them to be appointed. When the law designates the Council as the authority for a particular social service, it orders the appointment of a committee. For County Councils there is a large number of Statutory Committees—Finance, Education, Health, Welfare, Agriculture, Public Assistance, and several others; the lesser authorities, whether obliged by law or not, appoint committees for each important service. Among other committees usually appointed is one to recruit and keep in touch with the council's

staff, and another—the Law and Parliamentary—to arrange for litigation, negotiate with the Central Government, and sometimes promote Bills in Parliament. After an election, the Councillors decide the membership of each committee according to their special interests; where the Council is divided on party lines, the proportions of the parties are preserved. The number of Committees on which one Councillor serves must depend on the amount of work and the size of the Council. A useful, if minor reform of local Government, would be to establish some proportion between these two factors; at present the size of Councils depends more on their past history than their present needs. Where the work is great, and numbers permit, it is convenient for a Councillor to serve on only one committee, and specialise in its work. In smaller Boroughs, and Districts, however, a Councillor can usually find the time and acquire the knowledge for two or three, and there is a certain advantage in this, since the work of some committees is closely inter-related. The Councillors on each Committee choose a number of rate-payers, not members of the Council, to work with them; these co-opted members join in the discussion and the voting, but may not number more than one-third of the committee. By this means the Council can get help from people whose work qualifies them to give advice on one of the services, but who are unable to become Councillors.

Each Committee elects its own chairman, but the choice has usually been determined in advance by the Councillors as a whole, or by the majority party. At its meetings, the committee receives reports from the Clerk and Treasurer of the council, or their deputies, and from the officer concerned with their work. Thus they learn how their plans for expenditure are working out, and what items of Central Government policy affect them. All the details of administration come before them—the consideration of contracts, the maintenance of clinics and schools, the appointment of doctors and teachers, the running of municipal enterprises. Often the committees find it necessary to appoint sub-

committees for such separate matters as supplies, appointments, estimates of expenditure, and special branches of the work, such as the medical work of an Education Committee. The reports of sub-committees are examined by the committees, who in their turn cannot make final decisions, but must report to the whole Council; reports are gone through, section by section, questions and discussion ensue, and each section is then either adopted as Council policy, or referred back to the committee for further consideration. Most of the time at Council meetings is occupied by committee reports; in addition there will be correspondence to deal with, and the chairmen of committees will be questioned as are Cabinet Ministers in Parliament. For all Councils, there is a Statutory minimum of four meetings a year, and other meetings may be called by the Chairman or Mayor or at the demand of several Councillors. County Councils may well find the Statutory minimum sufficient; the Councillors often live far from one another, and the status of the Statutory Committees makes frequent Council meetings unnecessary. In the Boroughs, monthly, and sometimes fortnightly meetings are necessary, and when attendance at committees is added, the Councillor, even of a small Borough, must expect to spend at least one, if not two or three nights a week, on the work. The Councillor in a large County Borough will find that his duties make serious inroads into his time.

#### COUNCILLORS.

It is appropriate at this point, to repeat that Councillors are unpaid. So far as the smaller authorities are concerned, a politically healthy community should contain sufficient people willing to do the work from a sense of public duty. It is, no doubt, easier for a leisured person to be a Councillor, and there are probably a number of people who would make good Councillors, but are prevented by their hours of work. This problem is not, however, sufficiently serious to make payment necessary, and if it were introduced, it might attract less public spirited people into local

Government. The ratepayers, also, would feel less respect for unpaid Councillors, and this sentiment is logical enough when the work can reasonably be done in spare time. The duties of Mayor justify a salary, and expenses for special work, such as representing the authority at a conference, should be paid. It might be useful to compel authorities to use their power to make these payments; for if a town has a tradition of non-payment, a Councillor who is not well-off will have either to decline his duties, or to put himself in the invidious position of asking to be paid for that which his predecessors have done for nothing. The non-payment of members of the largest authorities is a serious problem. It frequently restricts membership to those of independent means, those who can control their hours of work, and some married women.

Women, both married and unmarried, play a larger part in local Government than in any other political field. This is partly because the system of unpaid Councillors could not work without drawing on this large supply of talented energy, but there are other important reasons. The organs of local Government were created at a time when the prejudice against women in public affairs was weakening, and have been charged with work in which women have a special interest. Despite recent changes in social habits, the work of the majority of women is the running of the home and the care of children. Any deficiencies in the housing, health, or education services, are therefore more immediately apparent to women, and more constantly present in their minds. There has been much vague theorising, unsupported by facts, about the proper sphere for women. Professor Dicey, for example, in his famous work *Law of the Constitution*, justified the withholding of a Parliamentary vote from women on the ground that such a restriction "conforms to the nature of things". Without making this, or any similar unproved assumption, one can reasonably conclude that most women will be more interested in the domestic and social services which preoccupy local authorities than in, say, the organisation of industry, or policy with reg-

to international trade. Even this proposition must be stated with caution; the number of women in industry is growing, and trade policies affect the cost of housekeeping. As the facts now stand, however, it is correct to emphasise the greater prominence of women in local, than in Central Government. The connection has been mutually advantageous; the local authorities have received valuable help, and the women have been able to demonstrate their capacity for politics. It is regrettable that many local authorities still have no women—or very few—among their numbers.

#### OFFICERS.

The scope and complexity of local Government make it essential that the elected Councillor should be assisted by a paid staff which may be divided into three groups. There is first the Clerk and the Treasurer, who, with their subordinates, form the Civil Service of the Town or County Hall. Their work brings them into contact with every department of local Government; by them records are kept, correspondence conducted, and the local Budget prepared. Someone must do this work for every authority, though in most Parishes it will not provide full time employment, and in some there may be no paid official at all. The second group comprises those with special knowledge of one department, e.g., the Director of Education, the Electrical Engineer, the Surveyor. Under the direction of each of these, is an administrative staff, and teachers, works managers, and other specialised workers, not in such direct contact with the local authority. It is difficult to say whether the Medical Officer of Health should be placed in the first or second of these groups. He is certainly a specialist, a doctor by profession, with a considerable technical staff under him. But there are so many activities in his field, that he is in constant contact with the whole Council administration. Thirdly, there are manual workers, skilled or unskilled—builders, dustmen, tramdrivers, labourers, many of whom have not a definite status, but move between public and



private employment. Councils are thus considerable employers of labour, and their behaviour as such is one of the points on which electors have to pronounce judgment. It is, however, the first group, and the administrative section of the second, who make up what is usually described as the local Civil Service. It is surprising and regrettable that there is no general agreement among authorities as to the recruitment and conditions of work of their servants. Efficiency varies a good deal, and salaries are affected quite as much by the views of the authority as by the nature of the work. There are, however, several factors at work to improve this situation. A number of societies organise examinations in the various types of local Government work, and the results of these can be used as a guide by the local authorities. The National Association of Local Government Officers works to extend this system, and to bring some uniformity into conditions of service. Authorities may take advantage of an Act which permits them to arrange a Pension Scheme for their employees. Since it is certain that local Government activities will continue to grow, action by the Central Government on the whole question will soon be necessary.

Relations between the elected political chief and the permanent official have been discussed in regard to the Central Government, and most of the observations made apply also to local Government. Since the local Councillor is not only, like the Cabinet Minister, dependent on electoral fortunes, but also a spare time worker, he requires as a rule even more help from his officials. The volume of legislation affecting local Government, and the problems of finance can only be fully understood by those who have made the study of them a life work. The status of the chief officials is demonstrated by their attendance at committee meetings, and the extent to which their advice is sought and followed; this may be contrasted with the Committees of the House of Commons where the views of the Civil Servant must be expressed through the mouth of the Minister. If, however, the Councillor

has the type of mind which can rapidly grasp facts and judge their importance, he need not be a mere figurehead. The permanent official can advise about methods, and warn about cost; but the making of constructive decisions rests with the elected politician. The law of the land provides maxima and minima of Council activity; it is the Councillors themselves who can determine policy between these limits. Only if they are devoid of ideas, or lack the energy to study reports and agenda will the locality be ruled by the officials. A Council which has a clear policy in view will not be hampered for lack of willing and competent officials, provided its conditions of service are such as to attract ability.

Since a Council has so many jobs to give, from that of Town Clerk to that of labourer, there is opportunity for corruption. Responsible posts can be given to the friends and relatives of Councillors, and work on roads and the like, to supporters of the majority party. A similar opportunity arises when contracts for public works are being granted; and a dishonest Councillor might, in return for a bribe, reveal the future intentions of the Council concerning purchase of property, to persons who stand to gain from such advance knowledge. The accusation that municipal Government is corrupt is not infrequently made, but it should be said that the amount of evidence produced is small. A large proportion of this gossip must be ascribed to the malice of disappointed contractors and defeated candidates for the Council, or to persons who lack interest in the public services and dislike paying rates. It is always open to those possessed of definite evidence to lay it before the Minister of Health, who would certainly take action. From time to time, however, cases arise which show that the level of honesty is not so high in local as in Central Government. The apathy of electors makes it easier for self-seeking people to become Councillors; the lack of a uniform system of staff recruitment permits the occasional entry into local Government service of officials who disgrace an honourable profession. The wiser Councils handle the problem

by rigorous standing orders prescribing a routine to be observed by committees in dealing with contracts and responsible appointments; for ordinary labour they can instruct the surveyor to supply his needs from the Employment Exchange. If standard rules were universally adopted, the danger of corruption would be lessened; but the best remedy is increased interest on the part of the electorate.

#### PARTIES.

The party system which does much to stimulate public interest in Parliamentary elections, is to be found also in local affairs, though in a modified form. This is a natural, and in the main a desirable feature. In every human character is the conflict between the desire to preserve, and the desire to improve, between caution and boldness, and as one element or the other predominates men and women are inclined to one or another party. This factor will operate in local as in national politics. From the account of the work of local Government, it will appear that there are two main questions in dispute—the desirability, first, of extending municipal enterprises, and second, of increasing the social services with the consequent increase of rates. These are simply the local form of the chief questions of home politics—the comparative merits of public and private enterprise and the wisdom of altering the distribution of wealth by collective action. Thus the Left, in local politics, stress the benefit of social services to the community, while the Right draw their attention to their effect on the rates. The Left advocate municipal trading, and the use of direct labour, the Right claim that these practices lead to inefficiency, and are an invasion of the field of private enterprise. The Left is, for the most part, the Labour Party, whose local and national propaganda is closely connected. The Right appears under a number of names, of which Municipal Reform, and Ratepayers' Association are the most frequently used; their organisation usually works in connection with the local Conservative Association. On some Councils there is a Progressive

Party, occupying a middle position; some contain a majority of Independents, whose policy leans in some respects to the Right and in others to the Left. For some years past there has been a tendency for the policies of all groups other than Labour to become unified, so that a two-party system is emerging. Election figures show that the local and national fortunes of the parties commonly move together, but there are numerous exceptions to this rule. Since local authorities cannot change the whole economic system, the Left gets local support from people who approve its attitude to social reform, but, not being Socialists, would hesitate to support it nationally. On the other hand the Left is handicapped by the difficulty of finding in its own ranks people with sufficient leisure, or—for County Councils—able to afford the expense. The Boroughs are the field of the keenest party contests.

The general advantages of party Government are apparent in local politics. Each side is spurred on to efficiency by fear of losing to the other; the interest of electors is aroused; the certainty of a majority in the Council enables the victorious party to plan its policy in advance. But it is not advisable that party strife should be as keen, or discipline as rigid as in Parliament. Much of the business is administrative, not raising vital questions of principle, and if Councillors go to meetings resolved to try to score off the other side on every issue, from the rents on Council estates to the best method of sewage disposal, much time will be wasted. Fortunately, many Councillors realise this; voting without regard to party, and constructive co-operation between parties are common, particularly in the informal atmosphere of committees. There is no exact local parallel to the Cabinet, dwarfing the individual Councillor's importance, and governing by means of a docile majority; though on the larger authorities there is now a tendency for the chairmen of committees, meeting informally, to assume Cabinet functions. Matters often arise in which Councils with different political complexions can co-operate. While the level of the rates is a party question, the

adoption of uniform methods of assessment by a number of Councils, can be arranged on business principles. Similarly, the recent problem of Air Raid Precautions caused party disputes, but there were also points over which the Central Government and the local authorities were at variance; at the discussions on these the local authorities were represented by Councillors from all parties. It is not uncommon for the parties on Councils to be very nearly equal in numbers, and when this happens, co-operation is inevitable. These modifications of the party system strengthen the case for Proportional Representation in local elections; the same advantages can be claimed for it as in national affairs, while several of the disadvantages do not apply.<sup>1</sup>

#### RELATIONS WITH THE CENTRAL GOVERNMENT.

Despite the importance of local Government and the efforts of the parties, it is not usual for more than one-third of the rate-payers to vote; and while the proportion occasionally rises to one half, it can also be as low as one-tenth. Councils which do no more than the law compels, and do it without enthusiasm or imagination, help to perpetuate this apathy; but the chief responsibility lies on the elector, without whose consent, the sluggish Council cannot exist. The activity of Councils, and the scope of social services have increased gradually as need and opportunity arose, so that a great and beneficent work has been accomplished without the majority of the electors being aware of what was happening. Anyone who surveys the whole work of local authorities to-day, and tries to imagine it either undone, or performed wholly by paid appointees of the Central Government, will need no further argument to induce him to vote. But while the spread of knowledge could do much, there is one reason, not so easily removed, for the electors' lack of interest. A bad local authority can cause inconvenience and danger, but in the last resort the State will always step in to avert disaster; at a Parliamentary election the consequences of a wrong choice

<sup>1</sup> See Chapter XII.

may be much more serious. It seems, then, that the greater the independence of the local authority, the greater the electors' interest is likely to be. But there must be a limit to this independence if the Sovereignty of the State is to be preserved, and the social services lose much of their value if there are wide local variations in efficiency. Here arises, once more, the conflict between local pride and freedom, and centralised uniformity. A summary of the relations of local authorities with the Central Government will show how far this conflict is successfully resolved in Britain.

Among the forces making for centralisation is the Central Government's power of withholding grants when work is ill done, so that the offending authority has to find more from the rates. While this measure can check extravagance, it will not punish slackness or reluctance to spend, unless the authority can be compelled by other means to render the service. Such means are found in the courts; for the authorities, being what the law calls corporate bodies, can sue and be sued like individuals. The Central Government may obtain from the High Court a writ, requiring any neglect of legal duty to be repaired; and any private person who has suffered loss as a result of Council negligence, can bring a civil action. In like manner, the courts are used to check action which is *ultra vires*. The Sovereignty of Parliament and the Rule of Law are thus manifested, since local powers and duties originate from Acts of Parliament, and are enforced by the courts. In health, housing, and other services where neglect can have the gravest results, a J.P., or simply four ratepayers in the area, can invoke the aid of the Ministry of Health to enquire into local inefficiency, and, perhaps, take over the duties itself. The Statutory provisions concerning meetings, committees, and the form and audit of accounts, ensure that in each area there shall be similar machinery whatever the extent to which it is used. Meanwhile the Central Government brings a constant influence to bear through its Inspectors. Not only are satisfactory reports from them the condition of Grants-in-Aid,

but the resulting accumulation of knowledge shows what changes in the law have become necessary. Circulars acquaint local authorities with the policy which the Central Government wishes them to pursue, and if the latter finds its legal powers insufficient, it can always frame new laws. Occasionally if a local authority uses its powers in a way of which the Government strongly disapproves, a special Act will be passed handing over the powers to Commissioners appointed by the Minister of Health. This happened, before 1929, to a few Boards of Guardians whose scales of relief were considered to be extravagant. Such a procedure destroys local Government; it is only suitable for an emergency, and could not easily be applied to a general, as distinct from an *ad hoc* authority.

The lower limit of local Government activity is, therefore, fixed by the Central Government's opinion of what constitutes negligence, and the upper limit by its opinion of what constitutes extravagance. The amount of possible variation has already been noticed. For example, local authorities must provide education, but the quality of school equipment is largely their own affair; they must take measures to deal with tuberculosis, but can determine the frequency of health visits for this purpose. Such differences of degree, throughout all the services, provide the issues on which local elections are fought. Some Acts, or parts of Acts, are Adoptive, i.e., the local authorities may resolve to use the powers if they wish. The Adoptive Acts do not create completely new activities, but give legal authority for extensions of the main service, e.g., the provision of public baths and cemeteries as additions to the health service. Often, the local party majority is at variance with the Central Government. The Labour Governments of 1924 and 1929 had to deal with many anti-Labour councils, and in 1937 about one-third of the County Boroughs were controlled by Labour, which was by then the Opposition in Parliament. Although friction is caused, there is no deadlock, and the country is on the whole likely to benefit from the check on extremism. The problem is well illustrated by

the events of 1931 and 1932. The Central Government was resolved to cut down public expenditure, both national and local. Opinions on the merits of this resolve might differ, but it was the basis of Government policy, and the Government had a Parliamentary majority. If the local authorities could nullify the will of Parliament on a matter of this nature, the whole machinery of Government would stop. But when the actual economies required of local authorities, particularly in the public assistance, and education services, were proposed, there was considerable opposition, often cutting across party divisions. Some of the proposals were modified, and, when the dust of battle had subsided, it was clear that though the Government had achieved its object, the policy had been improved by opposition. To put the matter simply, Westminster and Whitehall must have the last word on finance; but it will be a wiser word if they have first listened to the opinions of Durham and South Wales on the needs of the unemployed. The same process could be discerned in the discussion on derating and Air Raid Precautions. A measure of independence in local Government is therefore of great value to democracy. It provides a legal channel for opposition, it improves the Government by criticism, it is an antidote to bureaucracy. By its encouragement of civic pride it evokes unpaid service, and so reduces the cost of Government. The experience of local authorities who have made exceptional extensions of activity is a guide for future policy. Above all, it increases the number of people who have experience of administration, and are thus trained to criticise intelligently, and to value liberty. Dictators are well aware of these facts, and invariably curtail or destroy local autonomy.

#### REGIONALISM.

On this ground the aim of British policy should be to increase the powers of local authorities as far as possible. But public opinion is demanding a higher minimum standard of social service such as the poorer authorities find it difficult to reach.



At the same time, there is the growing importance of Town and Country Planning, and conflict of authorities has already shown itself as a hindrance to this service. One solution proposed is the division of Britain into a dozen, or a score of Regions, which might supersede and inherit the functions of the Counties. They could become the authorities for planning, highways, water and other public utilities, public assistance, and some of the health services. Local independence would not then involve the danger of neglect, because authorities were too small, too poor, or unable to employ a sufficiently talented staff. Opposition might be expected from County Boroughs whose independence would necessarily be diminished. If however, the Region could attract sufficient loyalty and interest, its size would enable it to perform services with more efficiency than is obtained at present. It is not likely that any wholesale reorganisation of local Government on these lines will be made in the near future; much recent legislation is based on the assumption that the present authorities will continue to exist for a good many years. Here, however, the possibility of making local experiments may prove useful. Because the Tyneside district is a Distressed Area, attention is called to the fact that although it is in reality one great town it falls into fourteen local Government divisions; two are County Boroughs, and of the rest, some are under the Northumberland, others under the Durham County Council. A Royal Commission was appointed to consider the problem. Its members were all agreed that Tyneside should become a single County Borough; and the majority recommended that this new city should, together with the rest of Northumberland, form a Region. To this the advocates of Regionalism objected that the proposed Region was far too small. If Tyneside did not enjoy considerable independence, the advantage of creating a single city would disappear; but if it did, it would overshadow and impoverish the rest of the Region. There would, however, be a place for Tyneside in a larger Region, perhaps including the four northernmost counties of England. It does appear that Regionalism is a project to be kept

in mind, and that its details should be more fully worked out in readiness for the time when widespread renovation of local Government becomes imperative.

BOOKS:

\*SIR E. SIMON. *A City Council from Within.*

MORRELL AND WATSON. *How York Governs Itself.*

L. HILL. *The Local Government Officer.*

## CHAPTER XX

# LONDON

The City  
The London County Council  
Finance  
Education  
Public Assistance  
Housing, Health and Safety  
Development  
General Problems  
The Metropolitan Boroughs  
*Ad hoc* Authorities

In the early Middle Ages, London held pre-eminence among English cities because of its nearness to the larger civilisation of Europe. Those Kings of England who had great interests in France found it a convenient capital; the presence of the Court provided a market. The fact that London was a port, which has at all times been of first importance, gained fresh significance when the discoveries of the sixteenth century made Western Europe the centre rather than the edge of the world. While the Industrial Revolution increased the importance of the North of England, it also swelled the number of artisans in London; and the development of a world economy added yet again to London's importance as a centre of trade and finance. To-day there is still the old "City" keeping its boundaries, street names, and forms of Government much as they were centuries ago, but crowded with banks, with insurance, shipping and trading companies, and financial houses, so that the words "the City" denote not so much a place as an economic institution. Round this City have grown the dwellings of millions, rich and poor, who get their livings from the town's commerce and industry, or by ministering to the wants of their fellow citizens; systematic

Government for this huge district dates back only to the last century.

#### THE CITY.

The City is divided into twenty-six wards, each of which returns, according to its size, a number of Councillors to the Court of Common Council. Persons with a property qualification in the City are entitled to vote. In addition to the two hundred and six Councillors, who are elected annually, the Court of Common Council contains twenty-six Aldermen, elected directly by the citizens, and holding their office for life. These, together with the Lord Mayor, form a separate Court of Aldermen. Another body, the Court of Common Hall, is composed of the members of the Court of Aldermen, and the Liverymen of the City Companies. These Companies are the descendants of the Mediæval Gilds of Craftsmen and Merchants. To-day, they have none of the old duties of regulating the conditions under which work was carried on, nor do the members of a Company all pursue the same occupation; they are associations of wealthy men, partly for social purposes, and largely to manage charities. Each Company fills the vacancies in its ranks by electing new Liverymen in accordance with its own rules. Thus composed, the Court of Common Hall has the annual duties of electing the Sheriffs, and of selecting two Aldermen from whom the Court of Aldermen will make a final choice of Lord Mayor; the general rule is for this office to pass by seniority among the Aldermen.

The Court of Common Council is, therefore, the real governing body of the city. It has all the powers which will be shown to belong to the Metropolitan Boroughs, though some of them it does not need to exercise. In addition, it has its own Police Force, Civil Courts, and Criminal Courts of Summary Jurisdiction. The latter are held at the Mansion House, the official residence of the Lord Mayor, and at the City's Guildhall, and are presided over by the Lord Mayor and Aldermen, all of whom are *ex officio* J.P.s. The Council looks after the bridges in the City, and owns

and manages much property, both within its own borders and elsewhere. The City itself, and some of the City Companies control secondary schools; but this is not comparable to the ordinary local education service. The schools are Public Schools, they are not within the City boundaries, and they draw their pupils from a wide area. The sanitation of the Port of London, and the markets near the City come under the Council's control.

The City is certainly a local Government area, but it is much more; it is a separate institution within the State, charged with functions which it has collected throughout its history, and which, through the prestige and power of its citizens, it has been able to retain. Many ceremonies illustrate its dignity—the King formally obtaining the City's consent before entering its confines, the Prime Minister speaking at the Guildhall Banquet held after the election of the Lord Mayor, the annual pageant of the Lord Mayor's Show. The Lord Mayor himself occupies a position similar in nature to that of ordinary Mayors, but surpassing theirs as the Mansion House surpasses a Town Hall. He is particularly noticeable as a contributor to, and organiser of charitable funds, such as that for refugees in China. Under his auspices, civic functions are arranged to do honour to distinguished people. In time past, particularly in the reigns of Charles I and George III, the City played a notable part in asserting the rights of the commercial community, and the liberties of citizens against attempts at royal despotism. Now that the struggle against the Crown is over, the City is a staunch supporter of the Conservative Party; there are no more such spectacles as occurred in 1771 when the Lord Mayor was conveyed to the Tower by order of a Government subservient to the King, to return thence in state amid the cheers of the people.

#### THE LONDON COUNTY COUNCIL.

During the greater part of the last century, the districts outside the City were ruled each by its own Vestry or Board, and these bodies sent members to a Metropolitan Board of Works,

which had been created in 1855 to handle those matters for which central control was essential. The 1888 County Councils Act drew the boundaries of the County of London, and provided it with a directly elected Council. Both the boundaries and the powers of this authority have survived, with minor alterations, to the present day. In 1898, there were created within the L.C.C. area the twenty-eight Metropolitan Boroughs—e.g., Poplar, Hampstead, Westminster—having subordinate powers.

For Parliamentary elections, there are now, within the County, sixty single-member constituencies, and the two-member constituency of the City; each of the sixty divisions returns two London County Councillors, and the City returns four. The whole Council is elected in March, once every three years starting from 1889, and the usual local Government qualifications are required for voters and candidates. The hundred and twenty-four Councillors choose, in addition to themselves, twenty Aldermen, who hold office for six years, half of them retiring at the end of a three year period. The Chairman of the Council may be chosen—as was Lord Snell in 1934—from outside. At King George V's Jubilee in 1935, the Council prepared an exhibition illustrating its activities; the King marked the occasion by ordering that henceforward the Chairman should, like the Lord Mayor, bear the title Right Honourable.

The Council's committees resemble those of the great County Boroughs in the provinces; its powers are in some respects greater than theirs, because of its size, and in other respects less, because in the capital, the Central Government judges it best to perform some functions, e.g., police, itself. The subject can be studied by taking in turn the work of the various committees.

#### FINANCE.

The L.C.C. administers 117 square miles in which dwell four million people. The total rateable value is £60,000,000 which with a rate of about 7/6d. yields £22,000,000 a year. The Council is not a rating authority, but obtains the money by

precepting, on the Metropolitan Boroughs and the City for the general rate, and on the Metropolitan Boroughs alone for a small special rate. Recently the rateable value has begun to decline, as more of the population have gone to live in less crowded quarters outside the County boundary, though many of them still work in London, and make use of London's municipal services. This will, in course of time, create a financial problem for the County, and perhaps a new authority will be set up to rule that Greater London which now spreads over parts of Essex, Kent and Surrey, and almost the whole of Middlesex.

Government grants and revenue from land owned by the Council raise the total income to £40,000,000. This sum the *Finance Committee* has to apportion among the various services. Thus, out of every £ taken from the ratepayer, 7/- is spent on education, 5/6 on public assistance, 6d. on housing and 7/- on the general services which contribute to health, safety and amenity. For these, there is also available the General Aid Grant under the 1929 Act, and for education and housing the specific grants. Much of the expenditure now being incurred to deal with slums and overcrowding, is, of course, capital expenditure, and there are further capital items in connection with the other services; whereas an ordinary local authority can get permission from a Government Department for its loans, the L.C.C. must present to Parliament each year a Money Bill outlining its proposed capital expenditure for each separate purpose for eighteen months ahead. In order to give some elasticity to this arrangement, the Council frequently puts in its Bill figures well above what it will be able to spend on capital account. The Council's present debt is about £75,000,000 of which rather more than half has been caused by housing. The Chairman of the Finance Committee, like the Chancellor of the Exchequer, has to study the Money Market, seeking the most favourable times for fresh borrowing, and for repayment of old debts. The Council is creditor as well as debtor, since it can lend money to the Metropolitan Boroughs; further, it is the authority to which they must apply for permission

to borrow. L.C.C. accounts are audited by the District Auditor.

Mention of the Annual Money Bill, and of the connection with the Metropolitan Boroughs, draws attention to the work of the *Parliamentary Committee* in preparing each year a General Powers Bill, which affects both the L.C.C. and the Metropolitan Boroughs. It serves as a code of the law relating to London, and provides an opportunity for annual review, in the light of experience, of the powers of London authorities. The *Parliamentary Committee* has thus at least two Bills to look after each year, and frequently more are promoted. Thus in 1936, the L.C.C. made an unsuccessful attempt to make empty properties liable to some part of the usual rate instead of being rate-free as at present. The Committee must also scrutinise any Bills before Parliament which may affect London.

The *Supplies Committee* is interested in the spending of the Council's money. Stationery, furniture, food, fuel, clothing and equipment required in schools, hospitals, and the like, involve an expenditure of £4,000,000 a year. The Committee must decide where these supplies can best be obtained, and exercise continual supervision over the quality of the goods.

#### EDUCATION.

The L.C.C. is the authority for both elementary and higher education, and its total expenditure on this head approaches £14,000,000 a year. In respect of equipment and staffing of schools, and facilities for specialised education, London ranks high among education authorities. Nevertheless, many of its elementary school buildings, erected in the time of the School Board for London, are out of date. The *Education Committee* has to pursue a regular programme of modernisation and rebuilding. At the same time, the Council's housing policy creates a need for schools in new areas, and the growth of public interest in the health and feeding of children has led to extensions of the school medical service. It is not easy to provide London schools with adequate playing fields. Most secondary schools have their fields



some distance away, and cannot use them more than once or twice a week; the Council is now attempting to provide similar facilities for the elementary schools which at present have nothing but asphalt playgrounds, and the occasional use of public parks. London education derives a special advantage from the number of museums, and places of interest situated in the capital, and provision is made for educational visits. The presence of a huge population makes it practicable for the Council to supply, in Commercial, Technical and Literary Institutes a great variety of cultural and vocational education for those who have left school.

#### PUBLIC ASSISTANCE.

Despite serious poverty in some parts, London as a whole is comparatively prosperous; and since the 1929 Act made public assistance a county responsibility, the difficulties which harassed some of the East End Boards of Guardians have vanished. London's *Public Assistance Committee* like that of other Counties, faces the problem of combining the necessary delegation of authority with effective public control, and has recently remodelled its administration, to secure that the same principles of granting relief prevail throughout the County. London has a special problem of homeless poor, for some of whom the capital seems to have an attraction. The L.C.C.'s Welfare Office now co-ordinates the activities of all organisations, public and private, which have suitable accommodation, and it is no longer necessary for anyone to sleep out of doors in London.

#### HOUSING, HEALTH AND SAFETY.

Sixty thousand new dwellings are needed to solve the problem of slums and overcrowding in London, despite the fact that the Council had already built sixty-five thousand in the first fifteen years after the War. For London, more than for any other city, the question of where to build is acute. The great estates, such as Becontree and Downham, which lie wholly or partly outside

the County boundary, have done a good deal to alleviate overcrowding, but since people cannot be taken an indefinite distance from their work, it is doubtful whether much more can be done on these lines. The Council is now turning its attention to the building of flats and houses nearer to the centre of London, and hopes to clear away the slums in three or four years from the present time, except for the East London areas which may well take twice as long. In that district, more than 150,000 people live either in slums or overcrowded conditions. The difficulties are well illustrated by the Hackney Marsh episode of 1936. The Council had decided to take thirty acres of this open space, and use it to house a first instalment of slum dwellers; their old houses could then be pulled down, and the site used for new building, and a steady programme of re-housing be started. But just because East London was overcrowded, recreation grounds such as the Marsh were precious, and many people criticised the Council's policy. Finally a private citizen, Mr. Villiers, helped the Council to obtain twenty acres in the neighbourhood, which could be turned into a playing-field as compensation for the thirty acres taken for housing. Similar difficulties frequently arise both in the East and other parts of London, and there is a long road to be travelled before both slums and overcrowding are abolished. Anyone, however, who journeys through the East End can already observe sections of a new and better city taking the place of the old. As this proceeds, the Council will increase its responsibilities as an owner and manager of property. The high cost of land in London does not make it easy to charge low rents for Council houses, and it is doubtful whether there would at present be much approval in London for a policy of differential rents.

It is the poorer citizens who are most directly affected by these activities; but those who are somewhat better off, and propose to buy houses costing less than £800, can obtain a loan from the L.C.C., as from a Building Society, though at a lower rate of interest.

Although the full title of the Committee is *Housing and Public Health*, its functions in the latter sphere are limited; the Metropolitan Boroughs are sanitary authorities, and two of the most important health duties of the L.C.C. are discharged by other committees. The main sewers are under the control of the *Fire Brigade and Main Drainage Committee*, whose other duty has recently been brought into prominence by the opening of the new Fire Brigade Headquarters. The *Hospitals and Medical Services Committee* now controls 75 per cent. of all the hospital beds in London, and about half of London's babies are born in the Maternity Homes of the L.C.C. and the Metropolitan Boroughs. The County is able to deal, more effectively than the Boroughs, with the building of hospitals, the training of nurses, the development of research, and special problems such as the sanatorium treatment of tuberculosis. It is the statutory duty of the Committee to assess the means of patients, and decide what they can pay; about 10 per cent. of the cost of treatment is thus recovered. No charge, however, is made in cases of tuberculosis. A separate Committee deals with *Mental Hospitals*, which contain over thirty thousand patients. The *Welfare of the Blind Committee* maintains homes and workshops, and provides employment for blind people working in their own homes.

Further contribution is made to public safety by the *Entertainments Committee*, which ensures that cinemas and other places of amusement are properly planned and equipped to deal with the danger of fire. This committee must also approve the type of entertainment that is to be given. The *Public Control Committee* is for the most part an agency of the Central Government, collecting motor licences, enforcing the Shops Acts, and the Acts dealing with the storage of explosives.

#### DEVELOPMENT.

Most of the difficulties of London Government are due to the haphazard growth of the town. Three Committees—those for *Highways*, for *Parks*, and for *Town Planning*, are concerned

with remedying the consequences of this neglect, and averting similar problems for the future. If the present plan of acquiring open spaces to form a permanent "Green Belt" round London is successful, the problem will be brought within definite, though very wide limits, for the belt will lie well beyond the County boundary. Meanwhile, the decline in the County's population, a source of anxiety to the Finance Committee, is the Parks Committee's opportunity to increase the number of open spaces, and gratify the growing demand for open air recreation. The Highways Committee, which has to work in conjunction with the Ministry of Transport and the London Passenger Transport Board, is chiefly concerned with the widening of streets, and the building of bridges to bear an increasing volume of traffic. A Town Planning Scheme for London is in preparation, but its results will only be fully apparent after many years.

#### GENERAL PROBLEMS.

The L.C.C. is an impressive example of the potentialities for good in English local Government. During the fifty years of its life it has been able to undo much of the evil done by centuries of neglect, and to show how the wealth of the capital might in part be used for the public advantage. So there has grown what at first sight seemed impossible—a consciousness, among four million people, most of whom live and work in districts remote from each other, of common citizenship and pride in collective achievement. In the fifteenth century William Dunbar described London as "The flour of cities alle"; three hundred years later, Cobbett described the sprawling growth as "the great wen". It is within the power of the L.C.C. to make Dunbar's judgment once more appropriate.

In sheer size, the Government of London resembles that of a State, rather than that of a local authority, and certain features appear in its methods of work, reminiscent of the Central Government. The leader of the party in power, and the leader of the Opposition have a recognised status, and enjoy the right to

take part in discussion in any committee. The *General Purposes Committee* deals with urgent or exceptional matters, and, since it contains the chairmen of committees, can ensure that the work of the departments is co-ordinated. A still closer parallel to the Cabinet is found in the unofficial committee of the chief members of the majority party; this again will include the chairmen of committees, and is the body which plans in advance the policy which the General Purposes and other committees will execute. Such a method implies, if not a two-party system, at any rate the possession of a clear majority by one party, such as has always been found throughout the Council's history. From 1889 till 1907 the Progressives ruled London, and the Moderates were in opposition; the former party included a number of Socialists, and developed public enterprise to an extent which the Moderates claimed was undesirable. At the election of 1907 the Moderates laid great stress on the dangers of extravagance, and the need for "Municipal Reform" which thus became the name of their party. They held power from 1907 till 1934; meanwhile the Progressive Party dwindled away and Labour became the Opposition. At the 1934 election, Labour claimed that the Municipal Reformers had pursued economy at the expense of essential public services. Labour secured a majority, which it still holds, on a programme of increased services, particularly in housing. The L.C.C. Election of 1937 was notable for the keenness with which both sides fought, and for the use of the most modern ideas in propaganda and poster designing. The growth of public interest was marked by the decision that Mr. Herbert Morrison and Sir Harold Webbe, the leaders of the Labour and Municipal Reform parties in the Council, should speak over the wireless on the issues involved. The percentage of electors who voted rose to forty, the highest since 1907.

One feature of the Central Government—the elaborate procedure of Parliament—has, fortunately, not been imitated by the L.C.C. Committee, and Council meetings proceed, as in a County Borough, with questions, discussion of reports, and

consultation with the Chief Executive Officers. It has been found convenient to limit speeches to fifteen minutes, though further time may be granted. The Council may, on the motion of any of its members, resolve to hold an inquiry into any problem which has not yet come before it—for example the provision of municipal theatres and cinemas. This gives scope to the private member, and increases the Council's store of knowledge.

#### THE METROPOLITAN BOROUGHES.

The County area, apart from the City, is divided into twenty-eight Metropolitan Boroughs. All the Councillors for such a Borough are elected at once for a three-year period in the November of the same year as the L.C.C. election. They choose Aldermen to one sixth of their number; these serve for six years, half retiring every three years as on the L.C.C. The Mayor is chosen as in a Municipal Borough, and enjoys the same powers and dignity, except that he is an *ex-officio* J.P. for his year of office only, not the subsequent year as well. Of the functions and procedure of these Councils, there is no need to say much; they resemble closely those of the smaller Municipal Boroughs which have no separate Police Force or Commission of the Peace, and are not education authorities. They are the rating and assessment authorities for London, and compile the Voting Registers. Health services are shared between L.C.C. and Boroughs; the latter remove house refuse, prevent the adulteration of food, provide clinics, see to the notification of infectious diseases, and carry out the inspections which are the basis of housing policy; some Boroughs have their own housing schemes and maternity homes. Street widening and improvement may be carried out by the Borough or L.C.C. according to the size of the scheme. In the provision of libraries, baths and laundries the Boroughs are independent. Nearly all supplement the work of the L.C.C. by providing parks and recreation grounds. More than half the supply of electricity is by public enterprise; Fulham, for example, has the largest municipal station in the world, and

brings coal to it in municipally owned ships. In consequence of all these powers, London contains local Government within local Government. Despite the civic sense of London as a whole, the problems of, say, Hampstead and Bermondsey are very different; if the residents in one area wish to give special attention to any service, and become pioneers for London, and if they are prepared to pay, it is desirable that they should have every opportunity to do so. The Boroughs have set up a permanent Joint Committee which tries to secure uniformity where it is desirable, as in the matter of assessment. In negotiations with the Central Government, this committee can voice such views as are common to all the Metropolitan Boroughs.

#### AD HOC AUTHORITIES.

The case for a Greater London Council becomes stronger when one notices the various authorities set up to handle particular problems. Some of these, such as the Metropolitan Water Board and the Thames Conservancy Board, are composed of persons appointed by public authorities—the local authorities in and around London, and Government Departments. Others, such as the Port of London Authority, have some members appointed by public authorities, and others by private companies. The Metropolitan Police are controlled by the Home Office, and the London Passenger Transport Board is a private concern in special connection with the Ministry of Transport. The areas served by these authorities are all different, both from the L.C.C. area and from each other. Public and private representatives from a wide area sit on the London and Home Counties Joint Electricity Authority. It was intended that this authority should become by 1971 the owner of all the plant now privately owned; but it is probable that before then there will have been considerable changes in the whole of public policy about electricity.

#### BOOKS:

HAWARD. *The L.C.C. from Within.*

H. MORRISON. *How Greater London is Governed.*

## CHAPTER XXI

# THE SPECIAL FEATURES OF SCOTTISH GOVERNMENT

It has already been noticed, in Chapter VI, that special provision is made, in the Departments of Central Government, for the administration of Scottish Home Affairs, Health, Education, and Agriculture and Fisheries. The Judicature and local Government of Scotland are also distinct from those of England. The general considerations discussed in Chapters XVI, XVIII and XIX apply, broadly, to the whole of Great Britain, the differences being mainly found in the administrative machinery. These differences are in part due to the persistence of Scottish institutions older than the union of the two countries, and in part to the geography of Scotland, with her colder climate and more sparsely populated regions.

### I. THE JUDICATURE.

Scottish law, like English, is composed of Common Law, Statute Law and Equity. The Common Law is based on the principles of Roman Law, and did not suffer from the rigidity which the limited number of writs imposed on English Common Law. The Statutes are those made by the Scottish Parliament before the Union of 1707, and by the British Parliament since, except where it is stated that they shall not apply to Scotland. As in England, all three elements form now one system to be administered by the courts. In the arrangement of the courts, the distinction between civil and criminal law, and between greater and lesser matters, may be observed.



In each County is to be found one or more Sheriff Courts, presided over by the Sheriff of the County and by Sheriffs-Substitute, on whom the bulk of the work rests. These courts have civil jurisdiction over all matters except divorce; their criminal jurisdiction is limited by the fact that they cannot try capital offences or impose sentences of penal servitude. In the larger towns, members of the local authority, sitting as *ex-officio* magistrates, in a Burgh Court, exercise similar powers; throughout the County, outside these towns, the Sheriff Court has jurisdiction. Crown officials, known as Procurators-Fiscal, conduct public prosecutions in these lower courts. There are no Coroners in Scotland; should the circumstances of a death warrant an inquiry, this is held by the Fiscal, who will decide whether further action by the authorities is necessary.

The Children and Young Persons (Scotland) Act provides for the establishment of Juvenile Courts similar to those of England; but little progress has so far been made in this direction.

The highest civil court is the Court of Session, divided into an Inner and an Outer House. The First Division of the former contains the Lord President (the Head of the Scottish legal system) and three other judges; the Second Division contains the Lord Justice Clerk and three other judges; the remaining five Lords of the Court of Session constitute the Outer House. The Court of Session is therefore, like the English Court of Appeal, a college of judges, separate groups of whom sit at the same time. It has jurisdiction over all civil matters and can hear appeals from the lower courts; there is a right of appeal from its decisions to the House of Lords.

The highest criminal court is the High Court of Justiciary, to which all the judges belong. It is presided over by the Lord Justice General, who is the same person as the Lord President. Five or more judges usually sit to hear a case. Each judge also goes round the country on Circuit, and these Circuit Courts of Justiciary, presided over by a single judge, are comparable to the English Assizes. Sometimes a judge in a Circuit Court will

reserve a point to be decided by his fellow-judges in the High Court. It is only on points of law that the High Court of Justiciary will hear appeals from the lower criminal courts; nor is there any appeal from it to the House of Lords.

If a Scottish jury cannot agree, it may return a majority verdict. In criminal cases the verdict may be "Guilty", "Not Guilty" or "Not Proven". This last verdict, however, has the same effect as an acquittal; the prisoner goes free and cannot be tried again.

## 2. LOCAL GOVERNMENT.

Scottish local Government, like English, was extensively reformed in 1929, and the Local Government (Scotland) Act of that year is the basis of present administration. Many parts of Scotland are so thinly populated that a small authority lacks resources for any but the slightest tasks; consequently much power is concentrated in the hands of the County Councils. Some of the County Councillors are elected by the Town Councils of all the Burghs in the County; the remainder are directly elected by the voters living outside the Burghs.

The Town Council of a Burgh is elected in the same manner as an English Borough Council. The Councillors choose one of themselves to be Provost (Mayor)—or, for the chief Burghs, Lord Provost—and others to be Bailies. The latter may be compared to Aldermen, except that they do not remain members of the Council any longer than ordinary Councillors. It is the Provost and Bailies who exercise the judicial functions described above.

The Burghs can be classified historically as Royal, Parliamentary, and Police Burghs; but there is a more recent administrative distinction between large and small Burghs, the former being those with more than 20,000 inhabitants. The same gradation of powers appears as in England. Only the most important Burghs manage their own education; in other respects Royal and Parliamentary Burghs with more than 20,000 inhabitants

are independent of the County Councils. None of the small Burghs manage their own police force; and the Police Burghs have powers very similar to those of the smaller Municipal Boroughs in England. There is a further resemblance to England in the fact that the powers of the County Council as against those of the small Burghs, are on the increase.

The County outside the Burghs is divided into Districts. The District Councils contain not only persons elected as District Councillors in the usual manner, but also those who have been elected from that District as County Councillors. At most, a District Council may possess as much power as its English counterpart; but in practice its powers are such as the County Council, subject to the approval of the Secretary of State for Scotland, may determine.

It has already been pointed out, in Chapter VI, that there is poverty in many parts of Scotland for the same reasons as there are Distressed Areas in England; to this must be added the infertility of much of the land and the difficulties of transport. Consequently, Scottish local authorities find it difficult to maintain the social services. Their educational system, it is true, is superior to that of England, having a school-leaving age of fifteen and more generous provision for advanced education. The health, maternity and child welfare services, however, lag behind. A greater measure of independence—perhaps a separate Parliament for Scotland like those of the Dominions—would mean an administration with more understanding of, and sympathy with Scottish difficulties. On the other hand, an effort by a Government with the resources of Britain as a whole would be necessary if new industries are to be started and agriculture revived. Possibly the solution is to be found in Regionalism, the Regional Administration for Scotland being given special powers and assistance to develop the country. The work of the Swedish Government in developing its own northern districts, or of the U.S. Government in the Tennessee Valley, might serve as examples.

# PART V

## BEYOND THE UNITED KINGDOM

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### CHAPTER XXII

## EMPIRE

Growth of Empire

India

Conditions of the Problem

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Indian States: Federation of India

Plans for Federal Government

Nature of the Federal Proposals

The Provinces

The Future

The Colonial Empire

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### GROWTH OF EMPIRE.

In the history of Britain, as in that of many other nations, there have been times when sections of the population found it difficult to get their living at home, and hoped for better prospects overseas. They might be members of the aristocracy, who being younger sons, did not inherit land, or small farmers squeezed out by the growth of great estates; on the disbandment of the feudal armies, there were many who were used to an adventurous life, and whose departure was a relief to the Government. Political and religious persecutions sent abroad others, of whom the Pilgrim Fathers are the most famous. Princes desiring new lands, and owners of capital seeking a profitable investment, encouraged colonisation.

From the start, merchants and manufacturers in England

regarded the settlements in the New World as valuable markets for English cloth, and as sources of supply of raw materials. The same desire for trade led many European powers to establish outposts along the African route to India, and in India itself; thence came also a supply of luxury goods. For more than two hundred years, Imperial Powers tried to monopolise the markets and supplies of their possessions, and the English "mercantile system" was a mass of import and export restrictions, which became increasingly complicated as now one, and now another industry succeeded in influencing policy. But while certain sections benefited, the final effect was to check enterprise, and the colonists suffered because they could not buy and sell as they pleased; indignation on this account was one cause of the loss of the American Colonies. Adam Smith's *Wealth of Nations* presented a powerful case against trade restriction, and his arguments gained all the more weight when Britain, having anticipated other nations in the application of power to industry, found herself anxious for wider markets, in which she could meet competition with ease.

In the nineteenth century, world-wide mechanisation of industry stimulated the growth of Empires. Britain's competitive advantage impelled other nations to bring territory under their control, and reserve its markets for themselves. The development of industry by those nations, made Britain doubtful of her Free Trade policy. Meanwhile, the increase of production and of large fortunes intensified the search for markets and supplies, and for lands with undeveloped resources, where capital might profitably be invested. India, Africa and Australia, only the fringes of which had been touched in the eighteenth century, were extensively developed; Germany and Italy which had only recently become great Powers, and, beyond Europe, the United States and Japan, joined in the search. Imperial rivalry threatened the peace of the world, and each Power became more anxious to have under its political control the materials necessary for war.

From these facts arose the theory of Imperialism. The motive

for seeking Empire was the advantage of people in the Mother country, particularly merchants and manufacturers, and the methods were frequently those of cruelty and treachery. But in many instances, the results were advantageous, both to conqueror and conquered, and to mankind as a whole. The Imperial Powers could put down barbarous customs, and introduce justice and education; the development of resources meant a greater plenty from which everyone might benefit. The problem is, how to apply knowledge and enterprise to the exploitation of resources, without at the same time exploiting human beings. In political controversy, the parties of the Right emphasise the civilising influence of Empire—the creation of prosperous communities of colonists in lands once sparsely inhabited by ignorant peoples, and the gift of efficient Government to native populations; they urge also the opportunities for trade and emigration, opened to the people of the Mother Country. The Left quote examples of tyrannous rule, and argue that the whole people of the Mother Country are involved in wars and military expenditure to an extent which more than compensates for any advantage, except to a limited class of property owners. Both sides of the argument can be extensively illustrated from the history of British Imperialism.

In some of the lands brought under British rule, there have sprung up large white communities, which have been given full self-Government. These are the Dominions, which form the British Commonwealth. The term British Empire, sometimes applied to all lands owning allegiance to the British Crown, is more strictly used to denote those which have not full self-Government; these are either small white communities, or lands where a large coloured population is ruled by a small class of whites.<sup>1</sup> This Empire contains, apart from the 45,000,000 in Britain, some 400,000,000 people, of whom 350,000,000 are in India.

<sup>1</sup> The Union of South Africa is in a special position. See Ch. XXII.

## INDIA.

*Conditions of the Problem.* A first step to the understanding of India is to appreciate her size, and the variety of her peoples. India is not a country on the European scale, but a continent equal in area to Europe without Russia, and each of the separate Provinces is the size of a large European State. There are over two hundred native languages and dialects, though only about half a dozen have a very wide currency. Less than one per cent. of the population can use English, but this minority is to be found in all parts of India. As to religious belief, two-thirds of the people are Hindus, and rather more than one-fifth Muhammadans. There are smaller groups of Buddhists, Christians, Sikhs, Jains, and Parsis, and about ten million people following primitive cults. Most of these faiths involve much ceremonial observance, and festivals and processions sometimes provoke violent conflict between different religious communities; Hindu-Muhammadan antagonism has been a particularly difficult problem. An important part of the Hindu faith is the caste system. The "Aryan" peoples of North India, who invaded the country centuries ago, and built up a great civilisation, divided themselves into four castes, representing priests, warriors, traders and labourers; the darker skinned peoples whom they subdued, were "outcastes". By now the system has lost much of its original nature, and the number of different castes has greatly increased. The chief results to-day are, first, the privileged position of the Brahmins, the old priestly caste, between whom and the rest there is a greater difference than between any other castes; second, the presence, particularly in South India, of large numbers of outcastes, whose economic and social position is seriously depressed. In some parts of India, they are excluded, so far as is possible, from any intercourse with their fellow human beings, and even their touch is regarded as a pollution. The distinctions are less marked in other districts, where Hinduism is less prevalent, or the influence of progressively minded Hindus, who regard "Untouchability" as a reproach to their faith, has been at work.

These differences make political and economic progress difficult, but they do not remove the need for it. Although there are many wealthy Indians, and many whose culture, learning and knowledge of the world are extensive, the mass of the people, whatever their race, language or faith, have poverty and ignorance in common. More than two-thirds of the people are occupied in agriculture, employing century-old methods, so that the productivity of the land is small. A landlord class takes a considerable proportion of the total wealth, and the peasant is commonly burdened with debt. Many labourers move, in their search for work, between the countryside and the towns, which must therefore give temporary shelter to many more than their permanent population. The conditions of work, and, still more, those of housing, would be regarded as intolerable in this country, though, since the establishment of the International Labour Organisation,<sup>1</sup> there has been some progress in Factory Laws. The poverty of India may be described statistically by saying that the average income of its inhabitants is 5d. a day, and that the mass of them get far less; this means not only a shortage of food, which is reflected in a heavy death rate at an early age, but an absence of those standards of sanitation and amenity, to which even the poorest in Britain are accustomed.

### *British Rule.*

British rule has put an end to the internal warfare which once troubled India, and so paved the way for the investment of much British and Indian capital. The resulting Indian industrial revolution greatly increased the importance of two classes in Indian society—the urban workers and the commercial and industrial middle class. The latter, finding itself hampered by trade restrictions imposed in the interest of British capital, began to demand self-Government for India, and expressed that demand in the formation of a political party, the Indian National Congress. Meanwhile, the total wealth of India has grown enormously,

<sup>1</sup> See Ch. XXIV.



but so also has the population. Religious customs, particularly those which depress the position of women, cause a high birth rate, and consequent pressure of population on subsistence. Nor have the Indian workers been able to better their position by trade union and political action as British workers have done. The British Government of India, in order to maintain its authority, has been reluctant to rouse hostility by siding with native religious and social reformers, and has endeavoured to remain on good terms with the wealthier classes. Only a Government representative of the peoples of India will have the moral authority necessary for social and economic reforms.

The British Government recognised the need for representative institutions, by a declaration in 1917 which stated that its policy would be "the gradual development of self-governing institutions, with a view to the progressive realisation of responsible Government in India, as an integral part of the British Empire." It is here implied that India will become a Dominion; and while this is generally agreed to be the goal of British policy, there is much difference of opinion whether it should be reached within a term of years or decades. The 1917 declaration was followed by the Government of India Act 1919, which set up a system known as "Dyarchy", i.e., the sharing of power between two authorities, the British-controlled Government of India, and elected Indian Legislatures. Many Indians, however, regarded these reforms as insufficient, and their discontent was manifested by a growth in the power of the National Congress. This party now drew support from all classes, and, though predominantly Hindu, it attracted a number of Moslems. Its object was *Swaraj*, i.e., self rule—either complete independence, or at least Dominion status. Members of the Congress party who were elected to Legislatures, did their best to obstruct the Government, and, throughout the country, refusals to pay taxes and other forms of passive resistance were organised. The most outstanding figure in the movement was the Mahatma Gandhi, though his concern was not so much with

politics as with the spiritual regeneration of India. In his interpretation of Hinduism, he laid great stress on the doctrine of non-violence; his saintly and austere way of life gave him immense influence, with which he strove to prevent the campaign against the Government from taking a violent form. Some acts of terrorism however, were committed, and the Government replied with measures which severely curtailed the liberties of person and speech, and of the press. The Police Forces, the rank and file of whose personnel were Indian, but under British control, found their powers increased, and used them in a way which created fresh ill-feeling. It was probably a surprise to many people in this country to learn from the remarks of a judge in an Indian court in 1938, that the police frequently tortured arrested persons.

Meanwhile, in 1927, the Simon Commission was appointed, to enquire into the possibility of a further step to self-Government. More dissatisfaction was aroused, because the Commission contained no Indian members. The publication of its report in 1930 was followed by a series of Round Table Conferences between British and Indians, and, in 1933, by the appointment of a Joint Select Committee of Lords and Commons, to whom were added Indian representatives. A Bill was prepared, which became law as the Government of India Act 1935.

### *Indian States : Fédération of India.*

For Governmental purposes, India is divided into "British India" and the Indian States. The latter, containing about 75,000,000 people, are ruled by native Princes who are not subject to Parliament, but subordinate to the King in his capacity as Emperor of India. Their position is protected by the various treaties made at the time they came under British influence. The Viceroy is appointed by the King to be both Governor-General of British India, and His Majesty's Representative in dealings with the States. The Princes are able to rule their domains as they please, provided they do not display hostility to the

British power, nor rule so badly that the resulting discontent is a menace to the peace of India. British residents attached to the courts of the Princes, exercise much influence over policy, No Indian State can have direct intercourse with a foreign power, but they consult with each other at the meetings of the Chamber of Princes. Some of them maintain armies, but in co-operation with the general plans for defence made by the Government of India. In social and economic matters, the States as a whole are somewhat behind British India, though there are exceptions, where an energetic Prince has used his power to effect reforms more rapidly than the uneasy combination of British and Indians has been able to do.

The "India" which, since 1919, has been a member of the League of Nations, includes both British India and the States, as the personnel of its delegations to the League Assembly shows. This arrangement implied that at some time in the future, there would be a form of Government uniting the two; a further step in this direction is taken by the 1935 Act. It recognises that the Princes have treaty rights, which an Act of Parliament cannot legally affect, but plans a Federation of India to which they may join themselves if they wish. When a number of States whose aggregate population is at least half that of all the States, have expressed their willingness to join, both Houses of Parliament may present an address to the King, who may then issue a Proclamation bringing the Federation into existence. Until that happens, the powers planned for the Government of the Federation will be exercised, though only over the provinces of British India, by the present Central Government of India.

*Plans for Federal Government.* Executive power, both in the projected Federation, and at present, lies in the hands of the Governor-General, and a Council which he appoints. Since the members of this Council sit in the Legislature, there is some resemblance to the British system of responsible Cabinet Government. The Governor-General, however, unlike the King in Britain, does not act entirely as his Ministers advise. The Act

lays on him a special responsibility for the defence and the finances of the Federation, the protection of minorities and public servants, of the rights of Indian States, and the prevention of any trade regulations designed to discriminate against British imports into India. On these matters he must use his discretion, but is to be guided by the directions sent to him by the Secretary of State for India. The India Office, over which the Secretary of State presides, is itself remodelled by the 1935 Act. In place of a body known as the Council of India, the Secretary is required to appoint from three to six Advisors, at least half of whom must have had ten years recent experience in the service of the Crown in India. These Advisors have a fixed period of service of five years, and a salary determined by the Act. Their influence is likely to be considerable, though the Secretary is not legally obliged, except on some financial matters, to take their advice, or even to ask for it. The problem of the India Office is this—how to reconcile the Sovereignty of Parliament with the impossibility of governing India in accordance with the decisions of people who have never been there? The Secretary, as a Cabinet Minister, is responsible to Parliament; through his Advisors, he may be kept in touch with the facts.

The Legislature planned for the Federation consists of the Governor-General and two Houses, a Council of State and a Federal Assembly. The Council of State will contain 156 members from British India, six of whom are appointed by the Governor-General. The remainder are elected, with the proviso that at least forty-nine must be Muhammadans, and with similar smaller reservations for Sikhs, Europeans, Indian Christians, Anglo-Indians,<sup>1</sup> depressed classes, and women. As successive Indian States join the Federation, they will be allotted seats in the Council according to their size, until finally there will be 104 such members; the method of their appointment will be determined by the Princes. Likewise, the Assembly, in its final form will contain 125

<sup>1</sup> In official language this term describes people of mixed Indian and European parentage.

representatives of the Princes, and 250 seats for members from British India; eighty-two of the latter will be reserved for Muhammadans, with smaller reservations, both for the communities so protected in the Council, and for representatives of landowners, commerce and industry, and labour. The British India representatives will not be elected by the ordinary voter directly, but by "Electoral Colleges", composed of groups of members of the Legislative Assembly of each Province, Chambers of Commerce, and labour organisations.

The Council will never be dissolved, but one-third of its members will retire every three years; the Assembly is comparable to the House of Commons, in that it cannot last longer than five years, and may be dissolved at any time by the Governor-General. Bills dealing with finance can be begun in the Assembly alone, but in other respects the two Houses have equal power, and all Bills must be passed by both of them in order to become law. Should they disagree, there is provision for a joint sitting, at which a majority vote would decide the matter. Each House can arrange its own procedure, but the Governor-General is to see to it that they do not discuss foreign affairs without his permission, nor raise any matters concerned with the personal conduct of Indian Princes.

*Nature of the Federal Proposals.* In addition to the powers already mentioned, the Governor-General, if he "is satisfied that a situation has arisen in which the Government of the Federation cannot be carried on in accordance with the provisions of this Act", can set aside the Federal legislature, and rule autocratically by Proclamation. His power to do this can be continued by successive annual resolutions of both Houses of the British Parliament.

It is clear that the Federation will not possess responsible Government such as exists in Britain, and the majority of Indian opinion is not anxious to see the Federation established. A serious criticism is that the Indian States will have much greater representation than their population warrants. Both Houses will

contain a block of members appointed by the Princes, and representing, therefore, not the peoples of India, but a small wealthy class. By the Federal plan, the British Government is not so much extending self-Government to India, as sharing, with the wealthier Indians, its power over the masses. This is the more important as India's chief need is legislation to improve the working and living conditions of the majority of her people. It is, of course, true that the British Government neither could nor would attempt to coerce the Princes into surrendering any of their powers, and if they were to be drawn into the Federation at all, it could only be by granting them great influence in it. It may prove that their support has been secured at the price of obstructing future social legislation.

In this connection, the distribution of powers between the Federation and the Provinces should be noticed. The Federation alone will have power to deal with defence, foreign affairs, currency, the postal service, labour conditions in mines and oilfields, the main railways (for which a Federal Railway Authority is set up), sea and air transport, commercial law, maritime shipping, the greater part of customs and excise regulation, and the salt tax, which is a considerable source of revenue, and affects the whole population. The Provinces alone have power over internal order, communications and water supplies, education, economic development, direct taxation, and the control of trade in alcohol and drugs. Over civil and criminal law, and the all-important question of labour conditions, both Federation and Provinces have power, and where the laws which they make conflict, it will be the Federal law which will prevail. While this distribution would in itself be satisfactory, it has to be interpreted in the light of the criticisms to which the Federal legislature is liable.

*The Provinces.* At present, pending the establishment of the Federation, interest is concentrated on the Provinces, to which the 1935 Act gives a greater measure of independence from the centre than they have previously enjoyed. British India is divided

into eleven Governor's Provinces,<sup>1</sup> each ruled by a Governor with a Council of Ministers, and a Legislature consisting of the Governor and a Legislative Assembly, and, in six Provinces, a Second Chamber, the Legislative Council. For the election of the Assemblies the Provinces are divided geographically, and the people in each area who belong to minority communities—Muhammadans (though these are in a few Provinces the majority), Sikhs, Christians—are formed into separate constituencies, returning members of their own community. The remainder elect members to fill the "general seats", some of which are reserved for the depressed classes. The qualification for voting, resting partly on property, and partly on education, is held by about one-tenth of the adult population. Where Legislative Councils are established, the system of election is such as to give an advantage to the wealthier classes. The Council of Ministers is intended, like a British Cabinet, to have the support of a majority in the Legislature, but the Governor is to use his discretion, subject to the instructions of the Secretary of State, with regard to the control of the police, the preservation of order, and the protection of minorities. He has also power, like that of the Governor-General, to govern by Proclamation in emergency.

There are a few comparatively small areas in British India, e.g., the Province of Delhi, and the Frontier district of British Baluchistan, which for historical or geographical reasons, it has not been convenient to include in any Governor's Province. These are Chief Commissioner's Provinces, ruled at the discretion of the Governor-General who appoints the Commissioners. Further, in several of the Governor's Provinces, there are "excluded areas" where the more primitive peoples live. The boundaries of these areas are determined by the Privy Council, and the Governor of the Province, subject to the Governor-General, rules them as he sees fit.

*The Future.* There is an obvious outward resemblance of all

<sup>1</sup> Burma is separated from India by the 1935 Act. There is a Burma Office, but the same person is Secretary of State for India and for Burma.

this constitutional machinery to that of this country. But the Briton who wishes to get some idea of how the Indian Constitution will work, must picture the following alterations in the British Constitution. Suppose the King to be able to act independently of his Ministers on those matters which most vitally affect order and liberty, and to be subject, in such action, to instructions from another country; suppose large sections of the Houses of Lords and Commons to be nominated by a powerful and wealthy aristocracy, and suppose only one in ten of the people to possess voting rights. He must further remember the differences of race, language, faith and education, which reflect themselves in the structure of Indian Legislatures. It may be argued that if India were given complete self-Government, warfare would break out between her peoples, and the martial nations, such as those of the North-west would ravage the territories of their neighbours; that foreign powers would attempt to set up Empires in India; that even if peace were preserved, the religious minorities and the depressed classes, would be subject to tyranny; or that if the franchise were widely extended, the ignorance of the mass of Indians would make the Government inefficient and corrupt. Against these evils, the British power claims to be the protector of India. The soundness of these arguments is hotly contested by many sections of Indian opinion, particularly the Congress party; it is not easy for those who lack close personal knowledge of India, to judge the case. The present Constitution, in its anxiety to prevent the Indians from making mistakes, renders it very difficult to secure future progress in either the political or economic field.

At the first elections for Provincial Legislatures under the 1935 Act, Congress secured a clear majority in six of the Provinces, and in three others was the largest party. Congress Ministries have since been working in somewhat uneasy collaboration with the Governors; several disputes have arisen and been settled, concerning the police, and the release of political prisoners. On the whole the arrangement has worked more successfully than



was at first expected, and Congress has made progress with education, and the improvement of social conditions. In so far as Congress is prepared to work the new Constitution at all, its most hopeful policy is to concentrate on such matters as these, and, by its handling of them, to demonstrate beyond doubt its fitness for more freedom than the 1935 Act affords. Several prominent persons in Congress, notably Jawaharlal Nehru, have made it a party which, without lessening its opposition to British control, concerns itself also with the need for social progress. It is certainly true that the root problem of India is the poverty and illiteracy of many of her people; constitutional framework, and the relation between Britain and India are only important in so far as they affect this fundamental matter. The 1935 Act, and any future reforms, must ultimately be judged by the extent to which they help the ordinary Indian by education, agricultural improvement, religious reform, and trade union organisation, to secure the economic advancement without which other concessions will be of little value.

#### THE COLONIAL EMPIRE.

*British Control.* The British Parliament rules, through the Colonial Office, about sixty million people, of whom nearly fifty million are in Africa, and the rest scattered throughout the world. The Africans, and the inhabitants of some Asiatic territories, and islands in the Pacific, have a primitive way of life; other possessions in Asia, such as Ceylon and Burma, have a civilisation in which Eastern and European elements are combined; in the West Indies, there are European populations, and a number of Negroes, descendants of slaves imported from Africa in the past. These lands are connected with Britain by the usual economic links of trade and investment. There remain some smaller possessions, such as Gibraltar and Malta, whose chief importance is as naval bases.

All these possessions, except Mandated Territories which are considered later, are divided into Crown Colonies on the one

hand, and Protectorates and Dependencies on the other. This classification relates rather to the circumstances in which they came under British control, than to the method of their Government. It is more in accord with present facts to classify the colonial possessions with reference to the amount of self-Government which they possess. Many, particularly in the West Indies, have a Legislative Council, which, with the Governor appointed by His Majesty, rules the Colony. Very few Legislatures, however, are wholly elected; usually some or all of the members are nominated by the Governor. Nor does the Legislature, whatever its composition, have complete control. On all vital matters, the Governor can override it, and he is subject to the instructions of the Secretary of State for the Colonies, who is in turn responsible to the British Parliament. All Colonies are subject to the Colonial Laws Validity Act, 1865, which declares that the British Parliament has power to make laws extending to the Colonies, and that no Act of a Colonial Legislature shall have any effect if it conflicts with a British Act. This does not mean that the laws of Britain and the Colonies are the same; in many Colonies, the right of attacking and criticising the Government is more restricted than it is here. But if the British Parliament chooses to state explicitly in an Act that the laws of Britain with regard to, say, freedom of public meeting, or any other matter, shall apply to any Colony, then those laws would apply, no matter what Acts the Colonial Legislature had passed. Because of this supremacy, the British Parliament is frequently described as the "Imperial Parliament".

The right to vote is in nearly all Colonies restricted to those who own a certain amount of property; and where, as in Africa, there is a small white population side by side with a large number of people of other races, the latter have little or no right of representation. Thus a grant of "self-Government" to such an area as Kenya would not mean democratic Government, but control by the white minority resident there. The Colonial Office takes the view that by maintaining its authority over these areas

it secures an administration more in the interests of the whole population.

*The African Problem.* The treatment of the peoples of Africa is the largest problem in the Colonial Empire. Here, British ideas of Government, and the desire to exploit natural resources, have come into contact with primitive society, where the tribe, with its Chief and Council of Elders, regulated both political and economic affairs. The method of Government adopted may be either "direct rule" where the native institutions are set aside, and the Governor exercises supreme power; or "indirect rule" where the Chiefs are instructed and encouraged by the British administration. The latter method has the greater possibilities; it leaves open the door for future self-Government, by Africans, through institutions which they understand; it has the danger, however, that the Chief, relying on British power, may be able to ignore the Tribal Council, and become a despot, rather than the public servant which the theory of African society requires him to be. For the successful working of either method it is necessary that the representatives of British power sent out by the Colonial Office should be acquainted with the intricacies of African society and belief.

It is to the credit of British rule in Africa, that it has ended warfare between tribes, slave raiding, the influence of witch doctors, human sacrifice, and other barbarities from which Africans have long suffered. Beyond this, however, there is a sharp distinction between the administration of West and East Africa. The natives of West Africa have been allowed to keep their lands for agriculture, and the spread of education and law has increased prosperity and happiness. In Nigeria, a Native Parliament has some control over the relations between Africans and those Europeans who wish to develop industries and railways. Thus encouraged, the African has made good use of his land, and the rise in the productivity of the country has been beneficial to all parties concerned; here then, the possibilities for good in Imperialism are illustrated. In most of the East African Colonies,

much land has been taken from the natives, and granted to Europeans. The African, prevented from living on his own resources, and obliged to pay taxes, must work as a labourer. His wage and conditions of labour, and the obstacles put in the way of his forming trade unions, make his position comparable to that of a slave. Meanwhile, the industries of the Union of South Africa not only employ the African subjects of the Union, but draw other labourers from the neighbouring Colonies of Southern and Northern Rhodesia. Consequently, there is much migration of Africans which contributes to the breaking up of family and tribal life. This system no doubt enables resources to be exploited, but the condition of the people compares unfavourably with that in West Africa. The position is most serious in the Rhodesian Colonies; the white inhabitants of Southern Rhodesia, who enjoy a large measure of independence, take a view of the problem similar to that held by the Government of the Union of South Africa, i.e., that Africans must be kept in a position of permanent subjection. Further north, in Uganda, and the Mandated Territory of Tanganyika, there has been a greater attempt to study the Africans' interests.

*Mandates.* The Mandated Territories are those which once belonged to the German and Turkish Empires. At the end of the War they were divided among the principal allied Powers who were to govern them "as a sacred trust" in the interests of the inhabitants. That they are not completely part of the Empires of the Mandatory Power is shown by the fact that an annual report on their Government must be presented to the League of Nations. Britain administers Palestine as a Class A Mandate, i.e., a country which, it was hoped, would soon become completely independent. This hope has been frustrated for Palestine by the difficulties arising between Arabs and Jews. The Arabs complain that the immigration of Jews, encouraged by Britain, and stimulated by persecutions in many parts of Europe, was depriving the Arab of his land. The Jews reply that they have enriched the country and enabled it to support a larger nonu-

lation both of Jews and Arabs. Religious difficulties aggravate the problem, since Palestine, besides being the Holy Land for Christians, contains many places sacred to the Jews, and others sacred to Muhummadans. The development of labour organisations, and co-operative agriculture in which both peoples can take part, may in time relieve the tension. For the present, the British administration has curtailed the immigration of Jews, and is preoccupied with the task of maintaining its own authority in face of Arab risings. A plan has recently been proposed to divide Palestine into a Jewish State, an Arab State, and an area including Jerusalem, to be kept under British control.

Tanganyika and some smaller parts of Africa are British Class B Mandates. Such territories are governed as Colonies, but the Mandatory Power must prohibit abuses such as traffic in slaves, arms, or liquor; it may not use the territory or its inhabitants to increase its own military strength; nor may it grant its own subjects opportunities for trade in the Mandated Areas which it does not grant to the subjects of other States Members of the League.

There are also Class C Mandates—areas which a Mandatory Power governs as it sees fit, except for the annual report to the League, and the prohibition of abuses. Britain has only one such Mandate—Nauru in the Pacific—and this is administered for Britain by the Commonwealth of Australia.

The Kingdom of Irak was a British Class A Mandate until 1932, when it became, with the approval of the League, an independent State closely connected by treaty with Britain. All lands from Egypt to the Persian Gulf are of great interest to Britain, partly because some of the supplies of oil required for the Navy are found there, and partly on account of the sea and air routes to India. Egypt, once held by a British Army of Occupation, is now like Irak, independent but linked to Britain by treaty. The Suez Canal, though in Egyptian territory, is in part the property of the British Government, and its use is regulated by international agreement. There is no doubt that if

Egypt were attacked, Britain would come to her defence as unhesitatingly as if she were part of the Empire.

#### THE PURPOSE OF EMPIRE.

The domination of these vast areas and millions of people of so many races and cultures, by the small island of Britain, is an impressive spectacle. What are the results for the ordinary citizen of this country? In so far as peace is preserved, and the standard of life of the subject peoples raised, the people of Britain—and of other countries—will benefit from the increase in the world's wealth and trade. More questionable is the benefit secured to British owners of property in the Empire, by the use of the Imperial Power to control native labour. If oppressive conditions of labour are maintained in the name of law and order, the resulting discontent may seriously increase the cost of maintaining British rule. Similarly, the regulation of Imperial trade in the interests of Britain alone, may provoke resentment among other nations, and so lead to increased expenditure on armaments. An Empire may be a contribution to the sum total of just and efficient government in the world; a method of increasing the profits of property owners; a source of jealousy among the nations with few or no possessions. The British Empire at present performs all three of these functions; its future depends on the extent to which it can develop the first. To put the problem in general terms, any association of peoples in which one people pursues its advantage at the expense of the rest, has an uncertain existence based on force; the only permanent basis for such association is the joint pursuit of the interests of all. It is, no doubt, true that many subject peoples in the British Empire could not now, if left to govern themselves, pursue their own interests successfully; but this imposes on Britain the responsibility of providing them with the education necessary for self-Government. The aim of Empire should be to transform itself into Commonwealth. The ordinary citizen is much occupied with the problems of Britain, and does not find it easy to consider

the difficulties of the many peoples for whose Government he is responsible; but he can keep alive in himself the realization of that common humanity by which he is linked to Indian and African, and make it the criterion by which he shall judge Imperial policy.

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## CHAPTER XXIII

# COMMONWEALTH

Status of the Dominions

Canada

Newfoundland

Australia

New Zealand

Union of South Africa

Eire

Unity of the Commonwealth

Conclusions

### STATUS OF THE DOMINIONS.

The first great community of Britons and other Europeans to be established as part of the British Empire overseas was the North American Colonies; and the attempt to govern them without sufficient regard for the inhabitants' wishes resulted in their loss at the end of the eighteenth century. During the nineteenth century, when similar communities were growing up in Canada and Australia, the opinion was sometimes expressed that they too would separate from the Mother Country, and that the object of policy should be to arrange the separation with as little ill feeling as possible. But it soon became apparent that there were solid advantages in preserving the connection. Migration to the unpeopled spaces overseas would be more attractive if the travellers knew they were not going to a foreign country; the investment of capital would be encouraged if it were known that the same ideas of law and property prevailed overseas as in Britain; and the growing populations would be a new source of power and prestige. But if the American mistake was not to be repeated, the overseas Britons must be given a generous measure of self-Government. They were accordingly provided with forms



of Government on the British model, their status being defined by the Colonial Laws Validity Act; and while the Imperial Parliament thus preserved its supremacy, it was slow to use it. The Great War demonstrated that these Colonies, as they were still officially called, were nations able and determined to rule themselves; second, that their ties of history and kinship with the Mother Country were so strong that of their own choice they would act with her in a time of crisis.

These facts were soon reflected in an alteration of administrative machinery. In 1925 a new Cabinet Office was created, the Secretary of State for the Dominions. At first this post and that of Secretary of State for the Colonies were held by the same person; but there are now two Ministers and two separate establishments. The Dominions Office has charge of relations with Canada, Newfoundland, Australia, New Zealand, the Union of South Africa, Southern Rhodesia, and the Dominion known in 1925 as the Irish Free State. Southern Rhodesia is not called a Dominion, but a "self-governing Colony" and the Dominions Secretary has power to override the Acts of its Parliament.

At the Imperial Conference of 1926, it was agreed that the status of the Dominions should be legally recognised, and in 1931 the important Statute of Westminster was passed. This Act states that the Colonial Laws Validity Act shall not apply to the Dominions, and their Parliaments have therefore the power to make what laws they please, each for its own territory. Thus, while the legislature for the United Kingdom is the King and the Houses of Lords and Commons, the legislature for Canada is the King and the Houses of the Canadian Parliament at Ottawa, and so throughout the Dominions. The King is represented in the Dominions by a Governor or Governor-General, and it is now recognised that he, like the King in Britain, will act on the advice of Ministers responsible to the Dominion Parliament. The King is thus the link between the Governments of Britain and of the Dominions; and in the preamble to the Statute of Westminster, it is accordingly laid down that any Act affecting

the succession to the Throne requires the consent of the Dominion Parliaments as well as that of the United Kingdom. This provision came into operation at the Abdication of Edward VIII. To this extent the Sovereignty of the Westminster Parliament is limited, and the Statute may be regarded as the beginning of a written Constitution for the Commonwealth. It is arguable in law that the Parliament which passed this Statute has power to repeal it, but in fact no such attempt would be made. Except for certain points expressly mentioned in the Statute, the Dominions possess complete power of self-Government.

#### CANADA.

After the discovery of the New World, Britons and Frenchmen settled on the eastern fringe of Canada, and after the Seven Years War (1756-1763) both communities were brought under British rule. There was further migration from Britain, and when the Thirteen Colonies proclaimed their independence, and became the United States, a number of people who wished to remain under British rule entered Canada. New Provinces, each with its form of Government prescribed by the British Parliament, were created. Disputes between Protestant Britons and Catholic Frenchmen hindered co-operation between the Provinces, though there was an obvious need for combined effort to develop the untouched regions of the West. Accordingly, the British North America Act, 1867, set up a Federal Constitution for the Dominion of Canada, whose boundaries now reach to the Pacific. Each Province was guaranteed certain rights, and provision was made against the passing of laws which should interfere with the religious liberties of the French minority. The powers of the Provinces, however, are small, and over all matters that the Act does not definitely assign to them, the Dominion Government has power; the latter can also disallow any Acts passed by the Legislatures of the Provinces. In technical language, Canada is a Federal State, granting "residual powers" to the Federal Authority and having a rigid constitution, viz.: the British North America

Act. The Dominion Government, and the Government of a Province, acting together, can modify this Constitution in order to prevent inconvenient differences between the laws of separate Provinces; but fundamental alterations can only be made by the Parliament of the United Kingdom. This position is not changed even by the Statute of Westminster; but if a strong demand for the alteration of the 1867 Act should arise from Canada, it could hardly be resisted.

As the West of Canada was developed, successive Acts drew the administrative boundaries, so that there are now nine Provinces; the districts of the extreme North are Territories administered by the Dominion Government.

Executive power is in the hands of the Governor-General and a Privy Council, though from the latter a Cabinet is selected, functioning as does that of Britain. The legislature is the Governor-General, the Senate and the House of Commons. The Senate is an undemocratic body, whose ninety-six members must possess a property qualification. They are chosen for life by the Governor-General, the proportions in which they are selected being such as to strengthen the position of the smaller Provinces. Bills must pass through both Houses to become law, but the Senate does not as a rule press opposition very far. The House of Commons is elected in the usual manner; it may be dissolved by the Governor-General, and cannot in any event continue for more than five years.

It has often been remarked that the frontier between Canada and the United States is the longest in the world, and has no military forces stationed on either side. Both nations evidently regard conflict as out of the question, and this is a factor making for British-American friendship. Further, while Canada would not wish to attach herself politically to the United States, there is a strong economic connection. There is more American-owned than British-owned capital in the Dominion; there has been much migration in both directions but chiefly out of Canada. Many Asiatics have entered the Western Provinces, so that the

Dominion has, like the United States, adopted a policy of restricting such immigration. In framing foreign policy, Canada is therefore inclined to lay more stress on the Pacific, and less on European affairs, than Britain.

#### NEWFOUNDLAND.

Canada's smaller neighbour, Newfoundland, was mentioned as a Dominion by the Statute of Westminster. Its people, however, have had a hard struggle with poverty, and much of the development of its resources has been carried by British-owned capital, on which interest has to be paid. During the great slump of 1932, Newfoundland was, like all debtor countries, in great difficulty, as, with the falling prices of exports, it became impossible to obtain enough money to pay debts. The Dominion was brought to bankruptcy, and the help of the United Kingdom was sought. In 1934, Newfoundland lost its Dominion status, and has since been ruled by a Commission over which the Governor has control.

#### AUSTRALIA.

People from Britain had begun to settle in Australia in the early nineteenth century, and, as is well known, parts of the Continent were used for a time as penal settlements. The laws of Britain were then so harsh that by no means all those sent to Australia were serious criminals; but the policy did mean that there was no attempt to provide the new land with a population suited to its needs. Later came a larger stream of free emigrants, and, as in Canada, separate States were formed. Some of these began to block inter-State trade by tariffs, and the resulting inconveniences led to a desire for Federation. When in 1883 Germany occupied New Guinea, Australians began to consider more closely the strategy of the Pacific Ocean, and the need for a united defence policy. The Commonwealth of Australia Constitution Act, 1900, provided the States with a Federal Constitution, in accordance with which, subject to the Statute of

Westminster and certain minor alterations, they are still governed.

The States enjoy greater independence than do the Canadian Provinces. The Commonwealth Government has control of armed forces, marriage laws, immigration, tariff policy, and some other economic matters expressly mentioned in the Act; but the States have "residual powers". As in the United States, the courts, particularly the Federal Supreme Court, will uphold the rights of States, and declare unconstitutional any law of the Commonwealth Parliament which infringes them. Consequently, many experiments in social policy have been made by the States—as also by the Commonwealth as a whole. There are at present six States enjoying these rights, and two others, Central and Northern Australia, which, like the Territories of Canada, are controlled by the Federal Government. Despite the building of the impressive Federal Capital at Canberra, it has not been easy to keep the States together, because of their different economic interests, and the vast size of the Continent. Western Australia has made a request to be separated from the Commonwealth.

To alter the Constitution, an Act must first be passed through both Houses of Parliament, and then submitted to the vote of the whole people; if it secures a majority, both in each State, and in the Commonwealth as a whole, it becomes law. This device of submitting a proposed law to popular vote is known as the Referendum. It serves to keep elected assemblies subject to the electors' will. If extensively used, it has the drawback of weakening the Government; but when restricted to laws altering a Federal Constitution, it is a valuable safeguard of the rights of the Federal States. The Swiss Confederation makes use of it both for Constitutional and other laws.

The Federal Government is in the hands of the Governor-General and a Federal Executive Council, whose members must sit in one or other of the two Houses of the Legislature—the Senate and the House of Representatives. Both these Houses are directly elected by the people, but while the former contains an equal number from each State, the total membership of the

latter, and the number of representatives from each State, depend on the population. The House of Representatives can be dissolved at any time by the Executive, nor can it last longer than three years without an election. The Senate is a permanent body, whose members retire in rotation; but if the two Houses disagree, they may both be dissolved, and after a new election a majority vote at a Joint Sitting, in which the Senate would be considerably outnumbered, decides the matter. As has been shown, the powers of the British House of Lords may be so used as to require an election on an issue disputed between Lords and Commons; the Australian Constitution gives definite expression to this principle of appeal to the people. The two Australian Houses have equal power, except over Money Bills; the Senate can only make recommendations about these; it cannot originate or amend.

The Commonwealth stretches over an area more than thirty times that of the United Kingdom, yet contains less than seven million people. Migration from Britain, which, from a glance at the map and the figures of British unemployment, seems the obvious policy, is difficult to arrange. Much of the unpeopled space is barren through lack of rainfall, and though it might, at great expense, be made more fit for habitation, it is hard to say what population Australia could, under modern conditions, support. As a producer of wool, she suffered severely from the 1932 slump, and is still suffering from the decline in Japanese purchases of wool following the great military expenditure of that country. Small numbers do not necessarily mean absence of unemployment. The Empire Settlement Act, 1932, led to co-operation between the Mother Country and the States of Australia, as a result of which a limited number of people were enabled to migrate with grants of money and land to help them. In 1936, the Overseas Settlement Board was set up as a Department of the Dominions Office to consider the whole problem. If world economic policy can be framed so as to provide greater security against slump, it may be that migration, both to

Australia and to other Dominions, will be a larger element in British policy than heretofore. Meanwhile, the Australians are anxious to maintain a "White Australia" policy, i.e., to prevent Japanese and other Asiatic peoples from settling in the Continent. Unless the white peoples can develop the area themselves, it will become increasingly difficult to resist future demands from Japan; but the Australians not unreasonably claim that they do not wish their standard of life lowered, nor their problems of Government complicated by the growth of communities living at the low standard now prevalent in Japan itself. This aspect of the Pacific problem causes Australia—and New Zealand—to take a special interest in foreign policy and Imperial Defence. Both Dominions have outposts in the Pacific; New Zealand obtained Samoa as a Class C Mandate, and Australia administers in like manner the former German possessions south of the Equator.

#### NEW ZEALAND.

Shortly after Australia began to be colonized, further settlements were established in New Zealand. In the 1860's there were disastrous wars with the Maoris, a brave and intelligent people whom the colonists found in possession of the islands. Since then, more regard has been paid to their rights; they now form five per cent. of the population, and live separately but on friendly terms with the whites. While both the history and size of Canada and Australia made a Federal Constitution desirable, New Zealand has a Unitary form of government. Until 1842 it was a Dependency of the Australian State of New South Wales. Since that date it has had its own Constitution, the essentials of which were defined by an Act of 1852. Executive power belongs to the Governor and his Executive Council, modelled on the British Cabinet. There are two Legislative Houses, a Legislative Council, whose thirty-eight members are appointed for a term of seven years by the Governor, and a House of Representatives, containing eighty members, elected for a maximum period of four

years. Four of these Representatives are Maoris, elected by their own people. There is provision for a Joint Sitting of the Houses to settle points in dispute, but in practice the House of Representatives does not experience serious opposition. The fertile land and favourable climate are aids to prosperity, though New Zealand has experienced the difficulties common to all food-producing countries in recent years. State regulation of industry and agriculture, and legislation concerning hours, wages, and conditions of labour, have been carried further in New Zealand than in any other part of the British Commonwealth.

#### THE UNION OF SOUTH AFRICA.

Before the Suez Canal was made, the shortest route to India was round the Cape of Good Hope. From the sixteenth to the eighteenth century, the great trading nations, Dutch, Portuguese and British, secured a foothold there. In the early nineteenth century, the Cape Colony came under British rule, and some years later, the British secured control of Natal. Large numbers of Boer (Dutch) settlers in the Cape, dissatisfied with British rule, journeyed inland and established two independent Republics, the Orange River, and the Transvaal; they also settled in Natal. Discoveries of gold and diamonds in the Transvaal attracted many British people. There they were known as "Outlanders", and though they paid taxes, did not enjoy the rights of citizens. The Boers maintained that they had created a civilized state out of African jungle, and saw no reason why they should enfranchise people who had come, after the difficult pioneering work was done, to enrich themselves. The Outlanders replied that their enterprise and capital had enriched the whole country. These differences led to the Boer War, by the end of which in 1902 the Boer Republics were part of the British Empire. There were thus four separate Colonies in South Africa. The need for common policy with regard to tariffs, the treatment of the native Africans, and the management of the publicly owned railways, led to the making of plans for Union. The Boer War had provoked much controversy in Britain;



many of the opponents of the Conservative Government of the time maintained that it was an unjustifiable war of aggression, and that the Boers had been unfairly treated. The Liberal Government which took power in 1906 wished to pursue a conciliatory policy, and in 1909 the South Africa Act was passed, which turned the colonies into Provinces of the Union of South Africa, and gave the Union self-Government. Britain and Boer were placed on an equal footing, and their languages, English and Afrikaans, were given the same status for official use. The form of Government is not Federal but Unitary, though each Province has wide powers, e.g., power of direct taxation, control of education, and separate franchise laws.

The Governor-General and his Executive Council are responsible to a Legislature, which contains two Houses. The Lower House, known as the House of Assembly, has one hundred and fifty members elected from the Provinces in accordance with their white populations. The maximum length of life of this House is four years. The Senate has forty members. Eight of these are nominated by the Governor-General, and must vacate their seats whenever there is a change of Government. The members of the House of Assembly for each Province then sit together with their Provincial Council, and elect eight Senators to sit for ten years. Disputes between the Houses may be settled by a joint sitting. It is important to notice that only white people may be members of the Legislature, nor have the black population any right to vote except in the Cape Province. There they elect four Senators, and three members of the House of Assembly, and these representatives sit for five years, even if there is a change of Government and a Dissolution during that period. Since there are two million white people in the Union, and seven million black, it appears that the form of Government secures domination by a white minority. This impression is confirmed by a study of the laws which exclude the native Africans from the better-paid occupations, and deprive them of effective labour organisation. This policy represents a victory of Boer ideas over British.

Though the coloured peoples of the British Empire are often in a state of subjection, it is the avowed policy of Britain that they should be given opportunities of education and progress, and that colour in itself shall be no barrier to advancement, even to the highest offices in the State. Whatever present practice may be, there is no place in Britain's theory of Empire for the view that coloured races should be kept in permanent subjection. South Africa, taking the contrary view, forms thus a distinct Empire within the Commonwealth. This may one day create a grave problem; for should the South African Government be involved in serious difficulties with its native population, it is hard to predict what public opinion in Great Britain would be. The very primitive and often unclean habits of many Africans in the Union make the problem, no doubt, exceptionally difficult, but whether this justifies a doctrine of permanent inequality is another question. The possibility of adding Rhodesia and neighbouring parts of the British Empire to the Union is envisaged by the 1909 Act, but the difference of opinion on native policy has so far checked the British Government from carrying out the transfer.

By the Peace Treaties of 1919, the former German colony of South West Africa has become a Class C Mandate of the Union. The abundant resources and trade of the Union, and its importance as a producer of gold, cause it to maintain relations of its own with foreign powers. The recent growth of Italian power in Africa, and the German demand for the return of lost colonies, oblige the Government of the Union to follow closely the course of European politics.

#### EIRE.

The conquest of Ireland began in the twelfth century and was not completed until the sixteenth. Although many settlements of English and Scottish people were made there, the native Irish have always formed the great majority of the population, and were treated by the English Government as an alien and subject people. The Catholic faith was persecuted, and Irish agriculture

and industry were systematically ruined in English interests.<sup>1</sup> The age-long discontent with British rule reached its final climax after the War; it was argued that Britain, which at the Peace Conference championed the right of Eastern European peoples to self-Government, could not refuse it to the Irish. A dreadful process of civil war, murder and reprisal, continued until 1922, when King George V made a speech urging both nations to "forgive and forget". A Treaty<sup>2</sup> was made between His Majesty's Government and the leaders of the Irish Sinn Fein ("ourselves alone", i.e., National independence) movement. Negotiations followed, and in 1922 the Irish Free State (Agreement) Act, created a new Dominion comprising all Ireland, except the Six Counties in the North East. Here lived the descendants of colonists settled by English rulers in the sixteenth and seventeenth centuries; their vigorous Protestantism made them unwilling to join with the Catholics of the rest of Ireland. The Irish Free State (Constitution) Act 1923 gave to the Free State the rights enjoyed by the Dominion of Canada, except that the Irish Parliament could not make laws which contradicted the provisions of the Treaty. Chief among these were the recognition of the Free State's membership of the British Commonwealth, the Oath of Allegiance to the King required from members of the Irish Parliament, and the right of the British Navy to make use of certain Irish harbours. While many of the Irish accepted these terms, a large section declared they would be content with nothing less than the recognition of a completely independent Irish Republic. Such a Republic had been proclaimed in the Rebellion of 1916, and Mr. Eamonn De Valera who since 1919 had been designated as President, led the opposition to the Treaty. A new and horrible Civil War between the two sections of the Irish broke out. The Treaty supporters were victorious, and for nearly

<sup>1</sup> For the legal and Parliamentary relations of the two countries, see Ch. IX.

<sup>2</sup> In law there cannot be a "Treaty" between the King and his subjects: the document is known, officially, as "Articles of Agreement for a Treaty".

ten years ruled the country. Mr. De Valera's followers reorganised themselves as the Fianna Fail (Comrades of Destiny) Party, and became a legal opposition. They drew support from those whose hostility to the British connection was strongest, and came in time to represent the interests of the less wealthy farmers. In 1932 they won an election, and Mr. De Valera proceeded to sever the links that tied the Free State to Britain. His work reached its climax in the promulgation of a new Constitution which came into force at the end of 1937, and in accordance with which the Dominion is now governed.

By this Constitution, the name of the State is Eire (Ireland) and it is declared to include the whole country, though the authority of its Government is not to extend to Northern Ireland until an agreement with that Province is obtained. Thus is expressed Mr. De Valera's aspiration for a united Ireland in the future. A President, elected directly by the people<sup>1</sup> for a seven year term, appoints the Prime Minister and approves the latter's choice of Ministers, all of whom must be members of the Oireachtas (Parliament). This body has two Houses—Dail Eireann (Assembly of Ireland) elected in the usual manner, and the Seanad (Senate) of sixty members, eleven nominated by the President, and the remainder elected. If the Senate and one third of the Dail object to a Bill, the President may if he wishes refuse his assent until a Referendum or a new election has been held. The President can also ask the Supreme Court to give an opinion on any Bill which he considers contrary to the Constitution, and if they hold it to be unconstitutional, it will not become law. The President has thus powers which distinguish him from the King in Britain, or Governors-General in the other Dominions. On some matters, he must consult a Council of State before acting, but is not bound by their advice. Some of the members of this Council are appointed by the President, others are members *ex-officio*. The Oath of Allegiance had previously been abolished,

<sup>1</sup> In May, 1938, Dr. Douglas Hyde was elected unopposed as the first President under the new Constitution.

and does not figure in the new Constitution. Special acknowledgment is made of the importance of the Catholic Church in Ireland.

The position of the President as head of the State, and the absence of any representative of the British Crown are significant. It is quite clear that the new Constitution sets the Treaty aside. It may be argued that since the Statute of Westminster did not mention the Treaty restrictions in its proclamation of Dominion status, the Free State was legally entitled to do as it pleased. This is not the view of the British Government, which holds that the people of Eire still owe allegiance to the King. It is however, impossible to say in what respects Eire is part of the British Commonwealth, except that the British Government regards it as such, and neither side is anxious to examine the legalities of the matter too far. Mr. De Valera's objective ever since the Treaty was signed, has been "an Association of the Kingdom of Great Britain and the Republic of Ireland". Except for Northern Ireland, he appears to have reached his goal.

Meanwhile a new difficulty had arisen. The Free State Government, in order to carry out a land policy, had obtained financial help from Great Britain, and agreed to make annual repayments. Mr. De Valera had opposed this policy, and on coming to power refused to pay the land annuities. The British Government replied with duties on imports from Ireland, which injured Irish Trade, and brought in some revenue to Britain. In 1938 an agreement was reached by which the British Government accepted £10,000,000 in final settlement: at the same time the provisions of the Treaty, as to the use of Irish harbours, were cancelled. The relations between the two countries are now better than at any previous period.

#### UNITY OF THE COMMONWEALTH.

While the Constitution of Eire emphasises that country's freedom from control of the British Parliament, it should again be stated that all the Dominions enjoy such freedom; and while all except Eire have at their head a representative of His Majesty,

that representative possesses no more powers than belong to the King in Britain. By what ties, then, is the Commonwealth united? First, by the King himself. All the citizens of the Dominions are his subjects; his representatives form part of the Dominion Legislatures. The importance of the King in Britain, despite the limitations of his prerogative, has been noticed. Though the King cannot personally take part in the social and ceremonial life of the Dominions, it is certain that the monarchy exercises as great an influence over the feelings and imagination of the Dominion peoples as over the people of the Mother Country. The example of monarchy in Britain shows that a tie of sentiment, though it defies exact description, does not lack strength. An important legal result of common allegiance is that the subjects of the Dominions are British subjects, and any of them who come to Britain are on an equal footing with British subjects permanently resident here.

Secondly, there is the Judicial Committee of the Privy Council. Some Dominions have restricted the right to appeal to it from their own Supreme Courts, and Eire does not recognise it at all. But it continues to transact much business, and at times, to settle inter-Dominion disputes. Some such body is certainly required by a group of nations between whom, in the course of trade and politics, disputes may arise, but who do not think of settling them by other than peaceable means.

This fact may be mentioned as a third and probably the chief link of the Commonwealth; that each nation in it, whatever its claims to independence, assumes as a matter of course, one limitation on its Sovereignty—it will not make war on other nations of the Commonwealth. The whole people of the Commonwealth would regard such an event as unnatural and outrageous. Thus is the Commonwealth distinguished from any other form of political association. In the past it has been assumed that unlimited right to make war was an essential mark of a fully developed national State; the Commonwealth shows that this assumption need not always be true.

A fourth point follows from the preceding. The common feeling which prevents war within the Commonwealth suggests that all the Dominions would be united in war against a foreign power. Whether this would invariably be so, is uncertain, but plans for the Imperial defence rest on the assumption that there would be unity, at any rate in a major war. The undefined membership of the Committee of Imperial Defence permits at any time the association with it of Dominion representatives, such as sat in the War Cabinet in 1917 and 1918. Since both Commonwealth and Empire spread over the world, the command of the sea is the foundation of defence. The Dominions maintain small Navies, but in effect rely on the Navy provided by the Mother Country. Canada and South Africa make all their male citizens liable to military training, and until recently, similar policies were practised by Australia and New Zealand. Without the command of the seas, however, Dominion Armies would not be able to perform any function save that of defence of their own lands from invasion. Presumably, should any Dominion declare itself no longer a member of the Commonwealth, the Mother Country would cease to provide for its defence; here is something in the nature of a "sanction" holding the Commonwealth together. But in practice, the matter is not discussed in these terms at all. Unity is assumed rather than examined.

A fifth link is economic. Much capital in the Dominions is owned by people in Britain. When Dominion Governments or private firms wish to raise loans, their membership of the Commonwealth gives the investor in Britain confidence, and so opens the London money market on specially favourable terms. British investors have thus a special interest in the trade and politics of the Dominions. The latter however, have learnt that the position of a debtor country can be made very difficult, and are now less inclined than formerly to raise such loans. The New Zealand Government in particular, endeavours to borrow as much as possible within the Dominion.

Various suggestions have been made for the framing of an

Imperial Constitution, to extend the work of the Statute of Westminster, and define the position of Mother Country and Dominions more precisely. Reluctance to dissect a relation which seems to rest more on feeling than on material facts, has so far prevented progress in this direction. Differences of opinion which now lie hid might be brought to the surface by the search for exact definition. Some machinery of Imperial administration has, however, proved necessary and useful. Each Dominion maintains in Britain a High Commissioner, whose relations with the Dominions Office resemble those of an Ambassador with the Foreign Office. It is further the business of the High Commissioner's Staff to set before the people in Britain the economic possibilities of the Dominions, and to encourage trade, investment and migration. There are also the Imperial Conferences which have been held at irregular intervals since 1907. Britain is represented by the Prime Minister, who presides, and by the Secretaries for the Dominions and for India; Prime Ministers and other representatives of the Dominions attend. The agenda is settled by previous communication, and has contained matters relating to foreign policy and defence, Dominion status, and trade.

In 1932 a special Imperial Economic Conference was held at Ottawa. Decisions were reached which have had great effect on the policy of Britain and of the Dominions. The immediate cause of the conference was the shrinkage of world trade, and consequent unemployment. There emerged a series of agreements, by which Britain and the Dominions mutually agreed to grant preferences to each other's products—i.e., to impose tariffs on foreign goods, and lesser tariffs or none at all, on goods from other British countries. The Colonial Empire was also affected by these decisions; preferences for goods from Great Britain entering the Colonies were now extended to goods from the Dominions, and the importation of foreign goods by the Colonies was restricted. The Ottawa Conference succeeded in enlarging inter-Imperial trade, and its decisions were welcome at a time when trade of any kind was slight. The States of the world having failed to achieve a



general removal of trade restrictions, groups of nations were attempting to increase, at least, the trade between themselves. The British Commonwealth naturally formed such a group. Since, however, Ottawa did involve higher tariffs against foreign goods, the difficulty of restoring world trade as a whole, is increased. This is important, because one serious check on the recovery of the world since 1933 has been the failure of international trade to expand adequately. There is the further danger that the trade of the Colonies will come to be regulated too much in the interests of the white peoples of the Commonwealth.

### CONCLUSIONS.

When Commonwealth and Empire are considered together, the whole structure is astounding, and compels admiration for the statecraft of those who built it. The Dominion Constitutions in particular illustrate a power of adapting past experience to new conditions. Each of them bears a strong resemblance to that of Britain—a responsible Executive, a wide franchise, a two-chamber Legislature, a Cabinet linking Legislature and Executive. But each also contains distinct features—Federalism, the Referendum, joint sittings—ideas and devices alien to the Government of Britain. Frequently a successful attempt has been made to notice the real effect of the conventions of the British Constitution, and embody it in the written law of the Dominions. The idea that the British have a knack of muddling through rather than a grasp of the principles of political science, does not bear examination in the light of these facts.

One gigantic task remains; the extension of the idea of Commonwealth to the whole Empire. Englishman, Canadian, Australian, regard each other as fellow subjects and equals; how long will it be before they regard all the peoples under the British flag in the same light? Will British political talent be equal to combining the best features of British Government with institutions acceptable to Asiatics and Africans? If this task is ever performed, there will emerge not merely an association of

States, but a great society demonstrating the possibilities of co-operation among the peoples of the world.

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## CHAPTER XXIV

# THE WORLD

- The Great Society
- The Position of Britain
- The Balance of Power
- Organisation of the League of Nations
- Activities of the League
  - Mandates
  - Minorities
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    - (i) Saar
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### THE GREAT SOCIETY.

The idea of a great society in which men of different races and nations should combine; in which, though there might be inequality between rich and poor, there would be no inequality based on race alone—this idea is not new. The Roman Empire, which nearly wrecked itself in the attempt to make Government an Italian monopoly, prolonged its life and usefulness through nearly five centuries of the Christian Era, by securing co-operation between men from Europe, Asia and Africa, and its final inability

to absorb the peoples of Northern Europe helped to destroy it. The Catholic Church, and the Holy Roman Empire, took up the conception. The latter was at all times restricted to Central Europe, and had only a few periods of successful practice under exceptionally able rulers. The Church, while exercising a great unifying influence, did not prevent the development of national Sovereign States in Western Europe. The power which such a State could wield was a recommendation for nationalism, and by the nineteenth century, the whole world was organised into Sovereign States, great and small. Meanwhile, trade had brought them all into close contact with one another, so that the need for agreed policy was greater. The invention of destructive and very costly armaments meant that unless peaceable relations could be preserved, mankind would do itself serious—perhaps irreparable—damage. Such relations are only preserved between parties who recognise some common rules of conduct, and do not make their own wishes the sole test of right action.

This, then, is the problem of world politics;—for economic and military reasons, the political structure of the world ought to resemble a great society much more closely than it does; the claims of each State to Sovereignty, and the rivalries of empires impede progress towards a great society. The British Empire contains the possibilities of a great society, but has not developed them; nor does it account for more than a quarter of the world's area or population. The Soviet Union is another example of a great society over part of the world, embracing one-sixth of the area, and rather less than one-tenth of the population, 180,000,000 people of different races. But the three nations—Germany, Italy and Japan—which have recently formed an Anti-Communist Pact, appear both as rivals to the British Empire, and enemies to the Soviet Union. There is no universal society of mankind. The Roman method of joining peoples together, in the first instance, by conquest, is out of the question. Moreover, the idea of the nation rests on history, language, and other facts, so that even within a universal society, nations would have a part to play.

The object of policy cannot, therefore, be to draft a world constitution, as if peoples of all nations could be regarded as the same; it is, rather, to start from the present world of Sovereign States, to draw their attention to the matters on which common action is essential and advantageous, and to frame the rules of such common action. In this process, there must be some sacrifice of State Sovereignty, and thus the way is paved for closer union.

#### THE POSITION OF BRITAIN.

Great Britain has a particular interest in this project. Her population cannot support itself except by trade with other countries; the income earned by British shipping and finance, and all the people these occupations employ, depend on the preservation of world peace. If the world as a whole is uneasy, and each nation, distrusting its neighbour, maintains expensive armaments, Britain has a similar burden imposed on herself. Nor is it possible for Britain, even with her Dominions and Colonies, to withdraw from the world as a self-contained unit. Vast as the combined resources of Commonwealth and Empire are, they do not supply all the needs of the inhabitants. The Dominions can direct their trade as they wish, and it is not part of their policy to confine it solely to British lands. The Empire, apart from the Dominions, is far from being economically self-sufficient. Even if Imperial resources made it possible to sever relations with the outside world, and live in isolation, such a policy would lead to war rather than peace. The blocking of trade between British lands and foreign countries would deprive the latter of markets and supplies to such an extent, that the continued existence of Commonwealth and Empire would be an injury to them. Further, inter-Imperial trade must be sea-borne, and an isolated Britain could only feel secure if her navy were sufficient to defeat any possible combination against her. Such a navy, however, would confer not only power to protect British interests but power to block the trade of other nations; the latter would strengthen their navies to meet the danger. Britain might protest

that she had no intention of so abusing her power; foreigners might reply that, as they had no intention of injuring Britain, there was no need for her to rule the seas. In a world of Sovereign States, no State will remain, for longer than it can help, in a position where other States would be able to get the mastery over it. This explains why both sides in wars have often claimed, with equal sincerity, that they were fighting in self-defence. If it be the rule of the world that each nation should make itself secure by its own efforts, then each will require such control over economic resources and strategic positions that it menaces others.

#### THE BALANCE OF POWER.

It is not possible, then, to make a complete separation between British and world interests, since the chief British interest is the preservation of world peace, for which the co-operation of other nations is necessary. In like manner, the interests of France, Germany, or any other State cannot be divorced from the common interest of mankind; but to Great Britain, with her dependence on trade, this truth has a special application. British statesmen have in the past pursued many different lines of foreign policy; but the impossibility of isolation has been common to all. One often-practised policy was the Balance of Power, i.e., the attempt to see that no one Power became strong enough to overwhelm the rest. As, during the 18th and 19th centuries, first France and then Germany became the greatest Continental Power, Britain looked with favour on the weaker side in the hope of restraining the stronger. By such means skilled diplomats can preserve peace for a time; but the adoption of similar tactics by all Great Powers results in a search for allies at the end of which the world is arrayed in two camps, one, if not both, of which is waiting for an event, such as the 1914 Serajevo assassination, which will provoke war at a time when its chances of victory are as great as they are ever likely to be. The weakness of the Balance of Power doctrine was that it took for granted that States may and will go to war if they see

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immediate advantage in so doing; while all were agreed that war was criminal folly, there was no attempt to embody this truth in the political organisation of the world.

The Great War finally discredited the Balance of Power doctrine, and emphasised the need for world-wide organisation. It showed further that no great nation could have more than the slenderest hope of keeping out of a major war. The whole people realised how deeply they, not only their Governments and Armed Forces, were concerned; and there was more understanding of the connection between war and the problems of investment, profits and standards of life. The years since 1918 have witnessed attempts to apply these lessons.

#### ORGANISATION OF THE LEAGUE OF NATIONS.

The Treaties which ended the Great War contained the Covenant of the League of Nations, the most recent attempt to organise world society. The original Members of the League were the victorious powers, except the U.S.A., and nearly all the neutrals and new States. The Covenant provides for the admission of new Members, if two-thirds of the League States agree. Germany joined in 1926, a number of smaller States did the same, and in 1934 the U.S.S.R. became a Member. The Covenant also provides for States Members to leave the League by giving two years' notice. The first important withdrawal was that of Brazil in 1928; in 1933 Japan and Germany gave notice of withdrawal, as did Italy in 1937. It has proved that withdrawal becomes effective in practice as soon as notice is given. In 1938 Austria became part of Germany and can no longer be considered a League Member. To-day, therefore, the League lacks the membership of four Great Powers. Other States, eligible but not members, are Brazil, Costa Rica, Saudi Arabia, the Yemen and Iceland. Britain, India and the Dominions have all, severally, been Members throughout; this gives international recognition to the nationhood of the Dominions and the intended Dominion status of India.

Each State Member is represented by a Delegation, and has

one vote in the *Assembly* of the League. The Assembly meets regularly at Geneva in the September of each year. The principle of "one State one vote" was essential if Sovereign States were to join at all; but there was also need for recognition of the fact that States differ in population and resources. The *Council* of the League, therefore, is composed in part of Permanent Members who are the Great Powers—Britain, France, the U.S.S.R., and formerly Italy, Germany and Japan. In addition to these there are nine non-Permanent Members, elected by the Assembly for a term of three years. Three retire each year and it is possible for a State to seek re-election if two-thirds of the Assembly approve. There cannot, however, be more than three non-Permanent Members serving a second term on the Council at any one time. The Council has always held at least four meetings a year, and frequently more; they are held, most often, but by no means always, at Geneva. Since the Council is the League's Executive it has often to act quickly, and may be summoned by the Secretary-General of the League, at the request of any League Member.

There is a new President of the Council at each Session, the Members succeeding each other in alphabetical order of their countries. The Council President opens each session of the Assembly but that body proceeds immediately to elect its own President and six Vice-Presidents. Six main Committees are set up, to deal with legal, technical, social and political questions, the problem of Disarmament and the Budget of the League. To these each State may send one Delegate. There is also a Credentials Committee to make sure that everyone in the Assembly is the properly appointed representative of a League Member, and an Agenda Committee to arrange the business.

Assembly and Council together have appointed a number of Auxiliary Organisations to deal with particular pieces of international work. These bodies, recruited from people of first-rate ability and appropriate experience, have co-ordinated the efforts of many international bureaux which are older than the League. League discussions often result in the framing of Conventions—

i.e., agreements on special topics, which Governments can pledge themselves to observe. Usually the coming into force of a Convention means the setting up of a body of officials to see that it is carried out.

#### ACTIVITIES OF THE LEAGUE.

The machinery thus created deals with the following matters:—

1. *Mandates.* The nature and classification of Mandates has been described in the previous chapter. In addition to those mentioned, France administers Syria as a Class A Mandate, France and Belgium have Class B Mandates in Africa, and Japan had a Class C Mandate over former German possessions in the Northern Pacific. The Council has set up a Permanent Mandates Commission to receive the reports from Mandatory Powers; the majority of the Commission's eleven members are subjects of States which have no Mandates. The Commission, having examined the reports and further questioned the Mandatory Powers, sends its conclusions to the Council which draws the attention of the Powers to whatever action may be necessary. The matter is subject to further inquiry by the Assembly's political committee.

Over Class C Mandates the League has not been able to exercise much influence; and Japan, on leaving the League, took her Mandates with her. In Class B Mandates, the specific abuses have been prevented and the administration kept at a level which compares favourably with that of most Imperial possessions. The Mandatory Powers have commonly enjoyed the bulk of the trade with the Mandated Territories, but serious discrimination against other Powers has been checked. Britain has profited from the Commission's advice over the problems of Palestine and Irak.

2. *Minorities.* The strip of Europe running from the Baltic to the Black Sea and the Mediterranean has been the scene of repeated conflicts. Frontiers have been drawn and altered by war. Before the Great War, the Austrian, Russian, and, to a lesser extent, the German Empire contained peoples who differed from

the ruling nation in race, language or faith. They were subjected, sometimes to restriction of citizen rights, and often to oppression. The victorious Powers declared in 1918 that frontiers would be drawn in accordance with the wishes of the peoples, as influenced by the differences of race or language. This principle could not be completely carried into effect. Teutons, Slavs, Magyars, Greeks, Turks and the subdivisions of these races mingled with one another so that no frontiers could be drawn which did not somewhere leave "pockets" of people surrounded by those alien to them. Even where the race-language frontier could be drawn it sometimes ran so that a State would be left in an indefensible military position; or it might cut across a district whose prosperity would be impaired if there were no freedom of trade between each part. The makers of the Peace Treaties had to effect a compromise between these claims, and in the result, there were minorities in many States—Germans in Czecho-Slovakia, Hungarians in Rumania, Macedonians in Yugo-Slavia and so on. Where there was doubt, the defeated Powers were not likely to get the benefit of it, and the present boundaries have been strongly criticised as likely to perpetuate ill-feeling. But there is no certainty that a re-arrangement would improve the situation. The problem is not soluble in terms of completely Sovereign States. If, for example, the Danubian States could have been persuaded to surrender their rights of imposing tariffs to a Federal authority, and if military preparations could have been subjected to international inspection, frontiers would have become less important and the menace to peace would have been reduced.

The Peace Treaties, and other Treaties concluded then and later did, however, make one inroad into Sovereignty. Poland, the Little Entente (Rumania, Yugo-Slavia, Czecho-Slovakia), Greece, Bulgaria, Hungary, Turkey and the Baltic States bound themselves not to persecute their minorities, and to provide them with educational facilities in their own language, opportunities for worship according to their faith and reasonable chance of appointment to the public services. Infringement of Minority

Treaties may be brought to the notice of the League Council by any Member of the Council, or by petitions from the minorities. The Secretary-General has to satisfy himself that they are temperately worded, and are not attempts at propaganda for the re-drawing of frontiers. That is to say, the minority has its rights, but must co-operate with the State of which it forms a part. The President of the Council appoints a Committee of Council Members to report on each petition. If the State concerned agrees, the record of the Committee's work will be published; refusal of assent to publication would be almost a confession of bad faith. Publicity and the desire to stand well with the Great Powers were thus forces influencing the lesser countries to respect Minority Treaties.

3. *Administration of Territory.* (i) *The Saar.* This district, with an overwhelmingly German population, was economically linked with Alsace and Lorraine which had justifiably been returned to France. It was therefore ruled, until January 1935, by a Governing Commission, subject to the League Council; then, in accordance with the Treaty of Versailles, a plebiscite was held. A Plebiscite Commission was appointed by the Council and furnished with staff and troops drawn from several nations other than France and Germany. Amid the intense excitement of the campaign, the Commission preserved order and the vote was taken. More than 90 per cent. of the people voted for re-union with Germany, and this decision was carried into effect.

(ii) *Danzig.* This port lies between East Prussia and the "Polish corridor" which separates that province from the rest of Germany. The majority of its people are German, but there is a Polish minority and the right to use the port was vital to Polish trade. Danzig was therefore created a Free City with a democratic Constitution under the protection of the League Council, which appointed a High Commissioner. Several disputes arose between Poland and the Free City, and the Poles put much effort into developing the rival port of Gdynia in their own territory. Growing trade, however, provided work for both ports, and

successive High Commissioners were able to establish tolerable relations. After Hitler's success in Germany, the Danzig Nazi Party made great strides, and now rules the City. It has brought the High Commissioner's work to a standstill, and in internal affairs there is little to choose between Danzig and Germany. The Poles have not yet lost their rights, but view the situation anxiously, particularly since the annexation of Austria.

4. *Economic and Financial.* The Economic and Financial Organisation set up by the League has many achievements to its credit. The new States—and many others—found their finances after the War in disorder, and their trade hampered. Many possessed valuable resources which were not used because no one would take the risk of lending the necessary money. Some were unable to staff their own Civil Services adequately. They had recourse to the Organisation which provided advice on policy, and expert assistance. The countries were then able to borrow, and the Financial Committee of the Organisation arranged the loans, repayment of which was guaranteed by the chief League Powers. The importance of this work is great; for the resources of South-Eastern Europe are well worth possessing and unless the native Governments can keep on their feet, the whole area is a tempting prize to the Great Powers, and so a cause of war as it has often been in the past.

The Organisation has also increased prosperity by persuading States to adopt common principles in their commercial law, and to simplify Customs formalities. Between 1920 and 1929 the world enjoyed a period of economic progress; millions were removed from the pressing fear of starvation to a condition which, if not attractive, was at least tolerable. To this result the Organisation had contributed. Post-war disorders, however, proved easier to remove from the economic system than the older defect of liability to slump. The 1932 depression undid some of the work of reconstruction and since then insufficient use has been made of the Organisation's services.

5. *Social.* Even in Britain, large scale social services are a

recent growth, and there are many States with far less experience. The Health Organisation of the League, by collecting statistics and arranging exchange visits between public servants of different nationalities, pools the available knowledge. Men and women engaged in medical research are put into touch with their fellow-workers. When new ideas are being tested, the results of experiments throughout the world can be tabulated. Unnecessary repetition of work by different scientists, ignorant of each other's progress, can be avoided. The Organisation has been of great value to nations with undeveloped health services; nor has the gain been confined to them. A people whose health is undermined by tuberculosis will have a low standard of life and be but a poor market for other nations. The knowledge of how to fight malaria brings into mankind's use regions previously uninhabitable. The conquest of cholera, plague and other diseases which can be borne by ships, is the concern of all. Through the Health Organisation quarantine rules have been made more effective. The Eastern Bureau of the Organisation, at Singapore, receives weekly information from some 160 ports round the Pacific and Indian Oceans, and news of any outbreak is spread at once throughout this area.

The Committee of Intellectual Co-operation similarly connects workers in every field of science and art. The results of different educational methods can be compared in the light of collected evidence. Some progress has been made with a difficult and important problem—the revision of school history-books so that they shall not present to the rising generation false accounts calculated to keep old hatreds alive.

The social and economic work of the League has been utilised to great effect in China. The Government of General Chiang Kai-Shek has many defects; but over great areas it wages increasingly successful war against floods and disease, and was reorganising the finances of the State. Throughout this work, now hampered by the war with Japan, experts appointed by the economic and social organisations assist the Government.

6. *Humanitarian.* (i) *Slavery.* In some parts of the world, slavery still persists, and conditions very like it prevail in many colonies. The political Committee of the Assembly and certain Committees of Experts have brought the facts to light and induced Governments such as those of Ethiopia and Liberia to combat the slave-trade in their territories. Britain has been able to play a useful part, as her ships in the Red Sea were always ready to prevent the passage of slave-ships from Africa to Arabia.

(ii) *Refugees.* The revolutions and shifting of frontiers of the early post-War years led to political and racial persecutions. Many Greeks, Ukrainians, Russians, Macedonians and others found themselves without money or homes. States were often unwilling to receive them, fearing that they carried disease or would cause unemployment. At the request of the League, Dr. Nansen, the Polar explorer, took up the task of finding them homes and work, and exercising care that they did not engage in conspiracies against the Governments they had left. After Dr. Nansen's death the League set up the Nansen International Office to carry on the work.

(iii) *Dangerous Drugs.* Opium is the ruin of the drug-addict and the livelihood of poppy-growers in Persia and China. The same may be said of other more dangerous drugs whose use is less common. Moderate quantities of the drugs are needed for medical purposes, and where the habit of drug-taking is widespread, it can only be gradually suppressed. Various organisations, set up by the League or under separate Conventions, have co-operated to create a Supervisory Body whose work is the foundation of all attempts by Governments to restrict the production and sale of drugs. The Body publishes a yearly statement showing what production and consumption is allowed. The Opium Board watches the price of drugs throughout the world and is able to detect the presence, in any region, of unlawful supplies. Since many of the countries concerned lack the communications and police forces necessary to enforce the



law, the ceaseless and often exciting struggle against drug-running has not yet been brought to a successful conclusion.

#### SECRETARIAT OF THE LEAGUE.

All these activities, like the political, economic and social work of the British Government, require a Civil Service. The Secretariat contains in all some 650 people of fifty different nationalities. The Secretary-General, at present M. Avenol, a Frenchman, is appointed by the Council, with the Assembly's approval, for a term of from ten to thirteen years. He chooses the rest of the Staff, subject to the Council's approval. Great care has to be exercised not to show favouritism among the nations. The subtle temptation to bribe a Government to pursue the right policy by the promise of posts for its subjects must be avoided. The Secretariat is divided into Sections, each controlled by a Director, corresponding to the League's activities, and serving the Council, the Assembly and the Auxiliary Organisations. The whole work is co-ordinated by the Secretary-General with Deputy- and Under-Secretaries and a Legal Adviser. These officials, and the Directors must make a solemn declaration before the Council that they will serve the League's interests, uninfluenced by the demands of their own or any other Government. The jealousies of States have made the problem of appointment extremely difficult. For the creation of an honourable and highly competent body much praise should be given to Sir Eric Drummond, the Englishman who held the post of Secretary-General from the start of the League till 1932.

#### THE LEAGUE BUDGET.

The League, its Auxiliary Organisations and two allied institutions, the International Labour Organisation and the Permanent Court of International Justice, cost together no more than £1,300,000 per year. The League's Budget, which includes those of the I.L.O. and the Permanent Court, is examined by a Supervisory Commission appointed by the Assembly, and has

to be approved, first by the Assembly's Budget Committee and then by the Assembly itself. The Assembly has also laid down a scale which determines how much each State shall pay, in view of its population and resources. The United Kingdom pays approximately one-tenth of the whole, India one-twentieth, and the total of the Dominion's contributions is a little less than that of the United Kingdom. Some States have fallen into arrears, but the total sum of these is not more than 5 per cent. of the Budget. The U.S.A. takes part in some League activities and contributes to the expenses arising in the same proportion as the United Kingdom contributes to the whole. By saving part of its income the League has been able to afford the new buildings in which it will be able to work more suitably than in the converted hotel which has served its needs for eighteen years: nor will the Assembly need to use a public hall in Geneva for its meetings. Much of the equipment for the new buildings has been given by governments and private organisations.

In describing League activities it is difficult to avoid frequent mention of Committees, Commissions and the like; but lest it should be supposed that the League is merely a bureaucracy, the work done should be compared with the tiny staff and modest expenditure. Of all the attacks made on the League, that which represents it as extravagant has the least foundation in fact.

#### LIMITS TO LEAGUE WORK.

The disappearance of the League would mean the disorganisation of all this work and consequent rejoicing among slave-owners, drug-smugglers, persecutors and other enemies of mankind. Their necessity would compel the continuation of the health work in some form, and organisations older than the League would remain. But they would not enjoy the same access to facts and expert service as the League now provides; the work would be carried on less efficiently or at greater cost. Public opinion, however, has required a much greater service from the

League; it was to be the organisation which would preserve peace. The peoples of the world, in concentrating attention on this topic, have been inclined to under-estimate the other activities; but that concentration has been fundamentally right. For unless the peace is preserved, all other work is halted short of its goal, as the example of the war on China shows. Unless the League Members can take effective action against any State which breaks its word, Treaties and Conventions have little force. The Assembly and, usually, the Council, meet in public; the Prime Ministers or Foreign Secretaries of the Powers attend; the U.S.A. has changed its attitude from contempt to friendly interest. All this means that a blaze of publicity lights up any breach of faith or social abuse; and for fifteen years this served to raise the standard of international conduct. But should any State be prepared to defy world opinion, how was it to be answered? The League is not a World State with a force of its own. It is an organisation set up by Sovereign States, by means of Treaties. These Treaties are exceptionally solemn and comprehensive, but the parties to them are still Sovereign. Can the organisation be used to exercise the necessary common authority? Before examining this question it will be convenient to describe the parallel institutions dealing with Labour and Justice; their work, like that of the League, rests in the last resort on the maintenance of the Rule of International Law.

#### THE INTERNATIONAL LABOUR ORGANISATION.

The Peace Treaties recognised the connection between peace and social justice. A land where discontent prevails may be torn by civil war in which foreign nations may, for their own purposes, take part. If oppression of labour is wide-spread, nations will be eager to snatch colonies in order to profit from overworking the natives. The I.L.O. was accordingly set up; it is a separate body from the League and its membership includes the U.S.A. and Brazil as well as the League States. Comparable to the League Assembly and Council respectively are the General Conference

nd Governing Body of the I.L.O. Each State is represented in the Conference by four delegates, two for the Government, one for employers and one for employed. The Governing Body, elected every three years, has 32 members; eight represent the states of chief industrial importance—Britain, France, U.S.A., U.S.S.R., Canada, India, and, so far, Japan and Italy. Eight more are elected by the Government delegates to the Conference; while the groups of workers' and employers' delegates each elect eight. Provision is made for representation of non-European states in each section of the Governing Body. The International Labour Office is the permanent staff of the Organisation.

The Governing Body decides what matters shall come before the annual meeting of the Conference. When, for example, reduction of hours of labour is to be discussed, the Office will prepare a report showing the hours now prevailing. If Conference decides that it would be useful to draw up a Convention, the Office will collect opinions from Governments and lay these before the meeting. Conference can, by a two-thirds majority vote, "adopt" a Convention. This does not mean that Governments are obliged to put the proposals into force; but they must bring them to the attention of the Parliament, or whatever the sovereign body in their States may be. If the sovereign body agrees, the Government will ratify the Convention and is then bound by it. If, after ratification, a Government does not observe the Convention, the Governing Body, in consultation with the Secretary-General of the League, may appoint a Commission of inquiry. In the last resort the trade of a defaulting State could be boycotted, but, since no State need ratify unless it wishes, this weapon is not likely to be used.

So the I.L.O. involves no sacrifice of Sovereignty; none the less, many Conventions have been ratified. Conference discussions are always vigorous and well-informed. The employers' and workers' groups are frequently, but not always, at variance; among Government representatives there is much difference of opinion. Governments wishing to maintain high standards are

anxious that their industries should not be injured by the competition of ill-paid and overworked labour in other countries. The Organisation has worked as a lever by which the labour standards in backward countries have been brought nearer to those prevailing elsewhere. Since the War, western countries have witnessed a notable decrease in hours of labour, and many detailed improvements in conditions of work for women and young people, and in the regulation of dangerous kinds of work. This progress could not have been registered if advances had not also been secured, through the I.L.O., among the poorer workers of Asia. Nor is success measured solely by the number of ratifications obtained. No Great Power has yet fully ratified the famous Washington Convention for a forty-eight hour week in industry; but the existence of the Convention has stimulated movements for shorter hours, and many workers in western countries do in fact work 48 hours or less per week.

The 1932 slump concentrated the Organisation's attention on unemployment; facts were collected and recommendations made which will be of much use as soon as the Governments of the world are willing to abandon their present policy of restricting international trade. At the same time, the project of a 40 Hour Week was discussed, and in 1935 a General Convention to that effect was adopted. There have as yet been few ratifications, but the Convention is influencing opinion and policy.

The topics discussed by the Conference are, of course, highly controversial, but for that very reason the Organisation has commanded world-wide interest and respect. Several Governments feel that Conference is sometimes too eager to improve conditions, without regard to what is practicable; but they do not refuse their co-operation on that account.

#### THE PERMANENT COURT OF INTERNATIONAL JUSTICE.

Before the War there was an arrangement by which nations could submit disputes to a Court of Arbitration at The Hague. [ Each State which had taken part in establishing the Court made

a list of four persons, and, from these lists, States which had a dispute could choose Arbitrators. The Peace Treaties included a Statute creating and providing rules for a Permanent Court at The Hague. There are fifteen Judges chosen for a term of nine years by a majority vote in both Council and Assembly. No State is obliged to submit disputes to the Court, but any State which agrees to accept the Court's decision may do so. More than forty States, including Britain, have signed the "Optional Clause" of the Court's Statute—that is to say, have bound themselves to submit to the Court any legal disputes they have with States which have also signed the Clause. Britain and the Dominions, however, reserve the right not to submit inter-Commonwealth disputes.

More than thirty cases have been settled by the Court. Frequently States can settle lesser disputes by discussion among themselves; but where this fails, recourse to the Court is cheaper and more honourable than the continuance of ill-feeling or attempts by either side to make its will prevail by injuring the trade of the other. The League Council has often asked the Court to give advisory opinions. For example, the question was once raised, whether the I.L.O. had power to consider agriculture as well as industry. The Court's opinion was that the I.L.O. had the power, and this is now accepted.

The Court is a judicial body; in interpreting the meaning of Treaties, or deciding the merits of a dispute, it does not consider what might be best from a political point of view, but simply what the position is in international law. Thus, the German annexation of Austria was certainly a breach of more than one Treaty, and therefore contrary to international law. Whether it is not desirable that the two countries should be united is another matter. International Law itself is hard to define, since there is no International Legislature to make it. The wording of Treaties, the practice of civilised nations, and the record of earlier decisions, must guide the Court.

## THE PRESERVATION OF PEACE.

The vital question now reasserts itself. Can the League method be used to stop war? At present Spain, China and Abyssinia feel the effects of war, and the whole world is increasing its armaments in fear of a general outbreak. It must be said that the League has failed in its chief task; yet in this phrase lurks a misunderstanding of the issue. At home, citizens who never trouble to vote will say "The Government ought to do something about it" when they suffer inconvenience; likewise people will say "The League has failed" as though it were a Power independent of Governments, and as though its existence absolved citizens and Governments alike from the need to think about international affairs. To speak accurately, "the League" means either the Governments of the States Members, or the mechanism, i.e., the rules of procedure laid down by the Covenant. "The League has failed" means either that the mechanism is unsuitable, or that the policies of Governments have been at fault.

The mechanism for preventing war may be discerned in Articles 10 to 17 of the Covenant. Articles 10 to 15 commit the States Members, step by step, to a position in which they are required to submit disputes among each other either to settlement by the Permanent Court, or by agreed arbitrators, or to the decision of the Council. The Council can be summoned by the Secretary-General, at the request of any League Member, should the threat of war appear. It will first endeavour to conciliate the parties to the dispute; should this fail, it will examine and report. If its decision is not unanimous, the League States are free to act as they see fit; if it is unanimous they are bound not to wage war on any State accepting the Council's award. The dispute may be referred to the Assembly, at the request of either party; a majority vote there, provided the majority includes all Council members, has the same effect as a unanimous Council decision. In reckoning unanimity and majority, the votes of parties to the dispute are, of course, not operative.

The effect of these Articles is to make all war a defiance of the Covenant, unless the nation waging it has adopted one of the methods of peaceful settlement, obtained a judgment or award or unanimous Council decision in its favour, and waited three months after the award has been given. A nation waging war within these conditions may be helped, and must not be hindered, by League Members. What is to happen if any Nation wages war in circumstances other than these? "It shall be deemed", says Article 16, "to have committed an act of war against all other Members of the League". They are to 'cut off' all trade and intercourse with it—i.e., to impose "economic sanctions", in which the Members are to support one another. The Council is to advise how best the Members can use their Armed Forces to impose "military sanctions", and Members are to allow the necessary passage of troops through their territory for this purpose. Article 17 invites States outside the League to use League procedure if they wish; if they refuse, and attack Members, the sanctions of Article 16 are to be used against them.

#### COLLECTIVE SECURITY.

The mechanism clearly provides every opportunity for peaceable settlement, whether through the League itself or any other agency accepted by the parties concerned. It establishes the principle that whatever the merits of a dispute may be, it is wrong for either party to refuse outside judgment and endeavour to get what it conceives to be its rights by force. On this principle all law and order, whether between States or individuals, must be based. A man may be subjected to annoyance and outrage by his neighbour; but he must not avenge himself by force because, if that were permitted, anarchy would result as each man took the law into his own hands. But the State can only expect individuals to obey this rule, if it provides "collective security"—i.e., if it has the will and the power necessary to restrain lawbreakers. The League has no international Armed Force, and this may appear a weakness in its mechanism. While the practical difficulties of



locating and maintaining an international army or navy are considerable, there are two weapons which could more easily be internationalised. The first is military aircraft which could police wide areas from a few centres, and the second finance. It would be possible for League Powers, at a moderate expense to each, to set aside a considerable total sum which would be made immediately available to the victim of aggression. More than one project for applying these methods has been discussed; they have been set aside, not primarily because of technical difficulties, but because Sovereign States were not prepared to relinquish the final power to enforce their own will. For as long as there had been nations, their prestige had been associated in men's minds with their power to strike; and old ideas are not quickly changed, however pressing the world's need for order. The same cause explains another weakness—the need for a unanimous Council vote before action could be taken. Men had learnt to accept majority decisions, if the majority consisted of fellow-countrymen; they would not yet extend the idea to the community of mankind.

Experience showed, however, that the mechanism could work; the Council could consider cases on their merits and reach a unanimous decision; it could even, in some instances, rely on the States to impose sanctions on the aggressor. More than thirty disputes have been settled without war under one or other of the forms of procedure suggested by the Covenant. On some occasions, as that of the assassination of the King of Yugo-Slavia in 1934, the unrest was so serious that in the absence of League procedure, war might well have broken out. The most striking success was in 1925, when Greek troops invaded Bulgaria. The Bulgarian Government ordered its forces not to resist and appealed to the League. The Council was immediately summoned and in a very short time the withdrawal of the troops was ordered. The Greek Government's representative, looking at the Press reporters waiting to spread his answer over the world, and at the box on the table, containing the plans for wrecking his

country's trade if she persisted in aggression, accepted the order. With the threat of war removed, a Commission of Enquiry reported on the merits of the dispute and its report was accepted. The mechanism of Collective Security had worked.

#### DIFFICULTIES OF SANCTIONS.

But Greece was a tiny and vulnerable country. If a Great Power were the aggressor, the mere threat of sanctions might not be sufficient. Already, in 1923, when Greece herself had suffered attack from Italy, the dispute had been somewhat unsatisfactorily settled by the Conference of Ambassadors rather than by the League, with the threat of further attacks scarcely hidden in the background. If the League method were to work, the States must be prepared, in the last extremity, to wage war on the aggressor. It is true that economic sanctions can have enormous, and perhaps decisive effect, even on a Great Power; neither Japan nor Italy, to quote only two of many possible examples, could long survive a complete breaking-off of trade. Such measures may or may not inflict more suffering than military action on the population of the aggressor State; this will depend on the circumstances of each Power. But the principle, and the difficulty, is the same. As Italy showed in the war against Abyssinia, an aggressor can always make economic sanctions ineffective by stating that if it is prevented from getting certain supplies by trade it will take them by force, or revenge itself by acts of war. Then the League States must either nerve themselves to military action, or be content to impose only such sanctions as the aggressor permits.

Sanctions may therefore be criticised as an attempt to cure war by means of war. But this objection can only be logically made by those who condemn the use of force even to support law. A State which keeps trained forces to protect its own territory and maintain internal order, and the citizens who assent to this, cannot say that they have made a moral objection to force when asked to use it to uphold international law.

Nor is it correct to assume that a decision to impose military sanctions, if necessary, means taking on an added risk of war. If it is known that sanctions certainly will be imposed, the aggressor cannot reasonably hope for success, and if he has any wisdom will abandon his aggression. He may, of course, be desperate and take the risk; and the League States, and the citizens of them, must face the fact that there is a chance of conflict. But the greater the preparedness to impose sanctions, the less the likelihood that they will need to be used. On the other hand, if the aggressor is not checked, others will in time follow his example, and then the risk of war for all States will be increased. If, when Japan invaded Manchuria in 1931, the League Powers had required her to evacuate it or face economic and, if necessary, military sanctions, it is, to say the least, unlikely that she would have persisted. The failure to check that aggression has been followed by other major aggressions; was the risk involved in using sanctions then greater than the risk of war which now threatens the world?

#### THE DECLINE OF COLLECTIVE SECURITY.

The success of Japan's aggression was a turning-point in the history of the post-War years. In 1935 began the Italo-Abyssinian War; in 1936, the intervention by foreign powers in the Spanish Civil War; in 1937 the renewed Japanese attack on China. This inability to prevent war cannot be ascribed to the defects of the League method. The real cause was the unwillingness of Governments to use that method against a Great Power. They refused to accept the proposition that State Sovereignty must be limited by the duties of Collective Security—the duty of refraining from aggression oneself, and the duty of helping to check the aggressor. Moreover, the defects that there were in the League method were the result of insistence by States Members on their Sovereignty. In refusing to limit Sovereignty, Governments were supported by great numbers of their subjects. Why, they felt, should they be committed to protect from aggression remote nations in which

they had little interest? It could be demonstrated in argument that Collective Security reduced the danger of war; that in helping the victims of aggression, whoever they might be, the citizen was in fact protecting the Rule of Law on which his own life and safety depended; but reason could not prevail against an inability to think of mankind as a whole. There the matter stands. Individuals may continue to think exclusively of Sovereign States, and to reject Collective Security if they please; but the price is the continuance of war.

The proportions in which responsibility for the failure is shared among the States, is a much disputed question between parties in this country, and elsewhere. Meanwhile, the membership of the League was reduced, and the difficulties of Collective Security became greater. In the past there had not been much substance in the argument that the League could not act because it did not include all States. It had been shown in 1931 and on other occasions, that if the League Powers chose to act against an aggressor they would enjoy at least the benevolent neutrality of the chief non-Member, the U.S.A. The American people would not join in a non-American quarrel if they could help it; equally certainly they would not wish to offend the League Powers for the sake of trading with an aggressor. In any event, the way to obtain American sympathy was to make the League work; for American avoidance of European affairs was based mainly on a belief that Europeans could not organise peace. Now that Italy, Germany and Japan stand outside the League the situation is much graver. The Pact which unites them, on the one hand, and the League on the other, look ominously like rival alliances.

#### THE FUTURE.

This reference to recent events shows how pitifully the attempts to get rid of war have ended. But since the abolition of war is now indispensable to civilisation, the attempts must be renewed. If, by wise policy or good fortune, the immediate

perils are dispersed what more fundamental measures can be taken in the future?

Wars sometimes occur because Governments deliberately plan them. More frequently the reason is that nations wish to change frontiers or Treaties, and see no way to do so save by war. "War", it is said, "settles nothing"; but it does at least produce a new situation, and those who chafe at their present circumstances may think it worth the risk. The Treaty of Versailles produced the League, but it also imposed outrageous injustices on Germany. Disarmament was declared an admirable thing; but only Germany was to practise it. Colonial possessions were to be a sacred trust, not a source of profit; but only the victors were to have them. A future generation of Germans was to be burdened with Reparation payments in which there was neither sense nor justice. Internationalised navigation of rivers and demilitarisation of frontiers were justifiable limitations on Sovereignty; but only Germany was to endure them. To-day the League Powers face an armed and angry Germany.

To say this is not to express approval of the present German Government. Men do not become wiser or nobler by suffering injustice; nor does it improve the situation to allow them to inflict injustice on others. The remedy is to substitute justice for injustice, and to provide a peaceable method of changing Treaties which have proved unjust or unworkable. Article 19 of the League Covenant empowers the Assembly to handle this problem, but so far it has been a dead letter. Any attempt to revive the League must include plans for the use of this Article.

There are, then, two objectives which must be pursued at the same time. One is Collective Security, the maintenance of the Rule of Law. Whatever justifications are found for the aggressions of the Powers outside the League, it remains true that if the method of aggression is permitted, no one is safe. The distribution of wealth in many countries provides strong reasons for discontent; but Governments do not therefore abandon the task of maintaining order in the hope that a better distribution will result if

everyone is able to take what he thinks fit. On the other hand, neither individuals nor States will respect the Rule of Law if laws and Treaties cannot be peaceably changed when necessity and justice require. The other objective therefore is peaceful change—the study of what measures will make the government of the world more just, and relieve the economic distress from which many nations, within and without the League, are suffering. Such measures may include re-drawing of frontiers, reduction of trade barriers, control of armaments and much more beside. They must be studied, not with a view to “buying off” dissatisfied Powers—but with this principle in mind:—Granted the equal right of all human beings to such happiness as the world can offer, what can be done to establish that right and to increase the total of that happiness?

#### DISARMAMENT AND LIBERTY.

The problem of Disarmament is subordinate to those already discussed. It has many technical difficulties—the comparison of the value of different weapons, the transfer of workers from armament making to peaceful industry. But it is not these which wrecked the Disarmament Conference of 1932; it was the absence of faith in Collective Security. So long as States are free to wage war, or fear that others will wage it on them, they will require arms and endeavour to make them as formidable as possible. Once Security is established, nations will, for the first time, be resolved to disarm, and the technical problems will shrink to their proper size. They are no greater than those which a modern State handles every day in its ordinary administration. While armament expenditure was moderate, consolation could be drawn from the fallacy that it “made work”. The truth is now apparent that it takes money from every citizen’s pocket and prevents him from giving employment in other and more sensible directions. The cost of pensioning armament workers for life, if necessary, would be large, but definite and subject to progressive decrease. The cost of the present armament race is illimitable.

Nor is the cost to be reckoned only in cash. A State resolved to be armed against all comers must extend its control over all departments of national life. The need for arms must prevail over the right to criticise the Government and the right to demand better conditions of labour. Wealthy states will be able to postpone this sacrifice of liberty; but in the end it will prove that liberty is to be enjoyed only in a world organised for peace.

#### BOOKS:

\*BOWMAN. *The New World.*

LEAGUE SECRETARIAT INFORMATION DEPARTMENT. *Essential Facts about the League of Nations.*

*League of Nations Hand Map of the World.*

GIBBERD. *I.L.O.*

\*G.D.H. AND M. I. COLE. *Guide to Modern Politics.*

HAMPDEN JACKSON. *The World Since the War.*

FRANCIS WILLIAMS. *Plan for Peace.*

## CONCLUSION

In the survey of World Government there have reappeared the same fundamental problems which were described at the outset of this inquiry into politics. There is the conflict between the need for order and the desire of nations, as of individuals, for the liberty to do as they please. If order is to be established without tyranny, there is need for the active goodwill of all those who wish to live together in the community. There is the task of making force subject to law, and of securing that law expresses justice. There are the economic, historical and racial facts, in the light of which the political forms must be interpreted.

The State exists through the individual's surrender of a nominal liberty to do as he pleases; but the individual discovers that by co-operation with his fellows he can secure a great extension of his real liberty. So the State can be organised to provide the individual with opportunities for useful and interesting activity. Thus encouraged, human energies rush out for the increase of wealth and knowledge. Within a particular State, such as Britain, some progress of this nature has been achieved; but in the world as a whole mankind is still engaged in the old struggle against disorder, injustice and the waste of human faculties. There is the same need to exchange the liberty to make war for the liberty to live well and in peace; and the penalty for failure is made more terrible by man's own inventions.

The picture is terrible enough, illuminated as it is by the flames of burning cities and villages in three continents. But it need not terrify mankind into inaction. The fashioning of Government demonstrates not only the follies, but the strength, wisdom



and generosity of which man is capable. The "laws of nature" direct the events of the physical world, but they do not ordain that the causes which man thinks right must necessarily triumph. They are as likely to produce famine and flood as to produce fertility and plenty; if it were appropriate to apply human standards to them, they would be judged arbitrary and cruel. All the happiness there is, and all the success that justice has had, is the laborious work of man, conquering his own ignorance and selfishness. For if he does not find virtue in the order of nature, neither does he find it unmixed in himself. Government begins in the desire for domination rather than for justice; but as man learns to think, he can transform the State from a tyranny over his fellows into an administration of the world's resources.

Two facts about this building of civilisation are apparent. First, that it must be a ceaseless task. The idea that civilisation, and justice and kindness with it, can vanish, is not easily grasped by those who have spent their lives in a peaceful and democratic State. Yet past and present events alike show that this can happen. Civilisation is man's work; it survives only through his continued efforts to adapt the forms of Government to new discoveries and new ways of life.

Secondly, it is a task in which all men should share. In the framing of appropriate forms of Government, the British have had notable success, and have made a distinguished contribution to the political advancement of mankind. This success has occurred because, for a multitude of historical reasons, British Government has come to rely increasingly on the consent and active co-operation of the common people. When the whole machinery of that Government is surveyed, it is clear that the laws and the administrative provisions would be lifeless if large numbers of ordinary people failed to give, not merely obedience but thought, interest and help. Some men have exceptional power to influence their fellows; they can appeal to the good or evil in human nature and achieve results which are accordingly good or evil. But the ordinary person, by accepting or rejecting new

ideas, or by mere indifference to them, sets limits to the power of leaders. Great advances are made when the masses of mankind desire them and will make effort and sacrifice to obtain them.

The strength of the democratic method of Government is that it gives the clearest expression to these desires. What the common people expect of Government is simple enough; to get a fair return for the work they do, to live at peace, to see a prospect of still better times for their children. To achieve these ends the work of great men is sometimes necessary; but unless the great are subject to the criticism and control of the people, they are liable to forget the purpose of Government and to succumb to the temptation of desiring power for its own sake. It is the object of democracy to prevent this abuse. But while it is, therefore, the method of Government which is richest in the possibility of advancement, it is also the most difficult to practise. It is not content with the order that a tyrant can impose by the strangulation of thought: it requires men to think and to demand progress; to express their disagreements and yet live at peace; to be eager for their own beliefs, yet tolerant of those of others.

Therefore in democratic States, such as Britain, there is a contribution for each individual to make. Everyone cannot be expert in administration, or abundantly supplied with knowledge; but everyone can recognise that public affairs are his affairs, and can apply to them at least as much care as he applies to his private concerns. He may begin to do this because it seems to be to his immediate interest; but after he has experienced co-operative public work, he will find that the rendering of service to his fellows is part of his own happiness. There are exceptional people who sacrifice themselves entirely to others; but there are not enough of these to form the basis of society. The majority of mankind will seek their own happiness, but there is in them a social instinct which will not permit them to find happiness in solitude. It is this widespread desire to seek happiness together which should be the basis of society, and to which the forms of politics should give expression.

The practice of politics, therefore, is not only necessary to preserve the conditions of civilised life; it also satisfies a deep personal need. But since it cannot be practised except in company with others, each individual must nourish in himself the power to imagine the feelings and wishes of his fellows. As he expects to express his own opinions, so he must be willing to study the opinions of others. As he hates to be deceived, so he must refrain from deceiving others, or resting content with half-truths when further study would increase his knowledge. In a democracy, the work of central and local Government, of voluntary organisations and political parties, provides innumerable opportunities for activity in which men can both realise themselves and be of service to others. The sphere in which each person can act is limited; but each activity develops the virtues which are the material of civilisation.

That men and women should pursue accurate knowledge and use it to guide their actions; that they should treat one another with justice and kindness and tolerance; that they should give their respect, not to those who have most power, but to those who use it most wisely; that, above all, they should acknowledge the tie of common humanity—these are simple conclusions to emerge from the complex study of State and World Government. But they are not mere phrases; where freedom exists, they are capable of ceaseless and wide practical application. They are the truths which millions have, to their own undoing, deserted. The determination of the free peoples of the world to reaffirm them, and act upon them, is the source from which shall spring deliverance from present evils, and the future advancement of mankind.

#### BOOKS:

MITCHISON. *The Moral Basis of Politics.*

ZIMMERN. *The Greek Commonwealth.*

CROSSMAN. *Plato To-day.*

# TOPICS FOR DISCUSSION AND SUGGESTIONS FOR FURTHER STUDY

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## CHAPTER I

1. Aristotle held that the purpose of the State was to secure the good life; Marx held that it was to preserve the privileges of the governing class. Compare these two views.
2. Should the citizen always obey his Government?
3. What economic and historical facts influence the Government of Britain?
4. What problems, other than those given in this chapter, illustrate the need for change?

## CHAPTER II

1. Consider the constitution of any foreign State, or of any voluntary society, and enquire where Sovereignty lies.
2. What advantages has despotic Government as compared with the Rule of Law?
3. Would you consider the following acts unconstitutional?  
(a) A General Strike, or a closing-down of factories by employers, in order to make the Government change its policy. (b) A refusal by pacifists to pay taxes for military purposes. (c) The passing of a law depriving people with less than £500 a year, of the right to vote.
4. Collect from newspapers, etc., further examples of Sovereignty of Parliament and the Rule of Law.

## CHAPTER III

1. Consider the arguments for and against Monarchy.
2. What does the phrase "loyal to the King" mean?
3. Collect instances from history of the influence on policy of the personal wishes of the King or Queen.

## CHAPTER IV

1. In what circumstances might an all-party Cabinet work successfully?
2. Note, from reports of present-day events, the growth of new Ministerial posts.
3. Compare the powers of the Prime Minister with those of a dictator.

## CHAPTER V

1. What type of examination would be most suitable for those wishing to enter the Administrative and Executive grades of the Civil Service?
2. In view of the influence of the Civil Service, can Britain be described as a democracy?

## CHAPTER VI

1. What attitude should the Government take towards public amusements?
2. Discuss the qualities which members of a Police Force should possess.
3. "Why is a Foreign Office a great office? Not because it deals with foreigners, but because of the tone in which it talks to them." Explain.
4. Examine the development of the military activities of the State in recent years.

## CHAPTER VII

1. How should the B.B.C. be controlled?
2. Collect instances of increase of Government economic activity.
3. Do you consider the creation of Agricultural Marketing Boards desirable?

## CHAPTER VIII

1. What principles should guide expenditure for the maintenance of the unemployed?
2. In what ways might the British system of social insurance be improved?
3. Consider arguments for and against the increase of the social services.

## CHAPTER IX

1. Discuss the arguments for and against a Second Chamber.
2. "At no time in its history has Parliament been really unrepresentative." Discuss.
3. From Press reports, compare the quality of debates in the two Houses of Parliament.

## CHAPTER X

1. Would it be true to say that a Private Member is only a cog in a machine?
2. At what points can Parliament assert its authority against that of the Government?
3. Can it be said that Parliament is incapable of meeting the needs of twentieth century Britain?

## CHAPTER XI

1. Can Parliament be said to control expenditure?
2. On what objects do you think the Government should spend (a) more, (b) less?
3. Discuss the fairness, or unfairness of British taxation.

## CHAPTER XII

1. Discuss further the criticisms of the British electoral system advanced in this chapter.
2. Is it correct to regard the people as the real Sovereign in Britain?
3. Try, by personal inquiry, to find out the reasons why people vote as they do.

## CHAPTER XIII

1. From present-day events, collect and discuss evidence bearing on the Capitalist-Socialist issue.
2. Study party literature at election times, and see how far it helps the elector to form a reasonable judgment.
3. What examples are there of important non-party questions?
4. In what circumstances might a Coalition Government be desirable?

## CHAPTER XIV

1. Does the democratic element in British Government operate against efficiency?
2. What type of man achieves power in a dictatorship and in a democracy, respectively?
3. Is it true that freedom to criticise and disagree leads to chaos?
4. Compare the attitudes of democracy, communism and fascism towards international affairs.

## CHAPTER XV

1. Discuss possible improvements in the method of appointing J.P.s.
2. Is an amateur magistracy desirable?
3. Study Press reports of judgments given in the High Court, and of summings-up in criminal trials.

## CHAPTER XVI

1. Discuss, with the help of a lawyer, the ways in which justice could be made cheaper.
2. Debate Capital Punishment and the treatment of prisoners.
3. Should there be any limits on what may be said or published?
4. Draft regulations for securing order at public meetings without injuring liberty.

## CHAPTER XVII

1. Discover the nature, powers and boundaries of the local Government authorities in your own area. What alterations might be desirable?
2. What matters ought the inhabitants of (a) a large town, and (b) a village to be allowed to decide for themselves, independently of any greater authority?

## CHAPTER XVIII

1. What is the purpose of education?
2. Discuss the project of secondary education for all.
3. Discuss, with the help of a local Government officer, the possibilities of town- or country-planning in your area,
4. Consider the policy of differential rents.

## CHAPTER XIX

1. Discuss municipal trading; collect facts about your own local authority's activities in this field.
2. What qualities should be looked for in candidates for posts in the local Government service?
3. Discover further illustrations of co-operation and conflict between central and local authorities.

## CHAPTER XX

1. Should the method of Government of the City of London be made more like that of the rest of the country?
2. Discuss the distribution of powers and duties between the L.C.C. and the Metropolitan Boroughs; what changes might be desirable?
3. Debate the policies of the two parties in London Government.

## CHAPTER XXII

1. Obtain, if possible from first-hand sources, information about the life of people in India and the Colonies.
2. What grievances have those Powers which lack large Empires?
3. What is the effect of the existence of the British Empire on world politics?
4. "A democracy cannot govern an Empire." Discuss, in relation to the British Empire.

## CHAPTER XXIII

1. For what reasons might it be desirable to draft a Commonwealth Constitution? Attempt to frame some of the clauses.
2. In what respects is the Sovereignty of both Britain and the Dominions limited by their association in the Commonwealth?
3. Discuss Federalism and the Referendum.

## CHAPTER XXIV

1. Study the map of post-War Europe, with reference to minorities, and other League activities.



2. Is it true to say that Collective Security means fighting for foreigners?
3. Examine the possibilities and difficulties of imposing sanctions.
4. Try to frame proposals to improve the present international situation.

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